

ORDINANCE NO. 23-2018

AN ORDINANCE OF THE CITY OF SEMINOLE, FLORIDA, CREATING ARTICLE VI OF CHAPTER 2 OF THE CITY CODE TO PROVIDE FOR PROCEDURES CONCERNING SALE AND ACQUISITION OF REAL PROPERTY BY THE CITY; MAKING RELATED FINDINGS; AND PROVIDING FOR CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, Florida Statutes § 166.021 grants to cities all governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, § 1.02 of the Seminole City Charter provides in part that the City shall have the power to acquire by purchase, gift, devise, condemnation or otherwise, property real or personal, or any estate or interest therein within or without the City, and for any of the purposes of the City and to improve, sell, lease, mortgage, pledge or otherwise dispose of the same or any part thereof, provided that the purchase or sale of any real property shall require a supermajority vote (5/7) from the full City Council; and

WHEREAS, Florida Statutes § 166.045, entitled *Proposed purchase of real property by municipality; confidentiality of records; procedure*, provides for a records exemption for offers, counteroffers and appraisals related to proposed purchases of real property by a municipality so long as certain requirements, including the obtaining of appraisals, are followed; and

WHEREAS, the procedures set forth in Florida Statutes § 166.045 are not the exclusive method for a municipality to acquire real property and, subsection (c) of that statute confirms that if a municipality does not desire to utilize the records exemption contained in the statute, it may follow any procedure for the purchase of real property established by ordinance; and

WHEREAS, the City Council of the City of Seminole wishes to provide more detailed procedures with respect to the implementation of the City's authority to acquire and sell real property, and in so doing to provide flexibility with respect to how the City does so, so as to ensure the best financial and strategic outcome for the City as to each such transaction; and

WHEREAS, the provisions of this Ordinance are in the best interests of the City, including its officers, employees and property owners.

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Seminole, Florida that:

Section 1. A new Article VI of Chapter 2 (Administration) of the Seminole City Code, inclusive of § 2-220 through § 2-225, is hereby created as follows:

ARTICLE VI. – LAND PURCHASE PROCEDURES

Sec. 2-220. – Purpose of article.

This article is to create necessary procedures to implement the authority vested in the city by way of § 1.02 of the city charter and general Florida law to acquire by purchase, gift, devise, condemnation or otherwise, real property, or any estate or interest therein within or without the City, and for any of the purposes of the City and to improve, sell, lease, mortgage, pledge or otherwise dispose of the same or any part thereof.

Sec. 2-221. – Gifts, donations, or bequests of real property.

(a) In the event any person or entity notifies the city that the person or entity wishes to donate or gift any parcel of real property to the city, or in the event any trustee, personal representative or executor of an estate notifies the city that a deceased person has bequeathed any parcel of real property to the city, the city manager shall conduct any necessary review of the property to ascertain whether the property is suitable to be accepted by the city. Once the city manager has conducted this review, she or he shall make a written recommendation to the city council as to whether the property should be accepted by the city. After reviewing the city manager's recommendation and any other information relevant to the decision, the city council will either accept the property or decline to accept the property.

(b) The city manager is authorized to, within budgetary limits, retain such appraisal, environmental, and title professional assistance as may be required to evaluate the potential gift, donation, or bequest and formulate a resulting recommendation to the council.

(c) The acceptance of any real property by gift, donation, or bequest may only occur with the approval of city council, and shall require a supermajority vote (5/7) from the full city council.

Sec. 2.222. – Condemnation.

(a) The city shall not use the power of eminent domain to take private property for the purpose of making the property so taken available for a private commercial, financial, retail or industrial enterprise. The city may only use the power of eminent domain to take private property if such property is to be owned by the city and used for a public purpose.

(b) In the event the city determines that it must use its authority of eminent domain under the restrictions set forth in subsection (a) above, the procedural and substantive requirements set forth in Florida Statutes Chapter 73 and Florida Statutes § 166.401 shall be followed.

Sec. 2.223. – Purchase of real property.

(a) The city may at any time explore the possibility of purchasing real property either within or without the city limits. Such consideration may be upon direction of the city council, on the initiative of the city manager, or in response to an opportunity presented to the city by a third party. In the event the city manager seeks to explore the possibility of purchasing real property where the city council has not previously directed such efforts, the city manager shall ensure that council members are aware of such efforts.

(b) In the event the city explores the possibility of purchasing real property, the city manager is authorized to, within budgetary limits, retain such appraisal, environmental, and title professional assistance as may be required to evaluate the potential purchase and formulate a resulting recommendation to the council.

(c) The purchase of any real property may only occur with the approval of the city council, and shall require a supermajority vote (5/7) from the full city council.

Sec. 2.224. – Sale of real property.

(a) Upon recommendation of the city manager, or upon its own initiative, the city council may authorize sale of any real property owned by the city under such terms and conditions as the city council determines are in the city's best interests.

(b) The sale of any real property may only occur with the approval of the city council, and shall require a supermajority vote (5/7) from the full city council.

Sec. 2.225. – Appraisals; records exemption.

(a) In the event the city is considering either to purchase or sell real property, or to accept a gift or bequest of real property, it may, at its discretion, obtain one or more appraisals.

(b) In the event the city is considering the purchase of real property in an amount of \$100,000 or less, no appraisal shall be required unless the city manager finds that the cost of the appraisal would be justified based on the facts and circumstances known to the city at that time.

(c) In the event the city is considering the purchase of real property in an amount in excess of \$100,000, the city council may, at its sole option, direct the city manager to obtain one or more appraisals.

(d) In the event the city wishes to avail itself of the public records exemption in Florida Statutes § 166.045 for all appraisals, offers, and counteroffers associated with an attempt to purchase real property, it will ensure that:

(1) All such appraisals, offers, or counteroffers must be in writing.

(2) For purchases in an amount between \$100,000 and \$500,000, at least one appraisal by

an appraiser approved pursuant to Florida Statutes § 253.025 shall be obtained.

- (3) For purchases in an amount in excess of \$500,000, at least two appraisals by appraisers approved pursuant to Florida Statutes § 253.025 shall be obtained.

Such exemption shall apply until an option contract is executed or, if no option contract is executed, until 30 days before a contract or agreement for purchase is considered for approval by the city council or, if a contract or agreement for purchase is not submitted to the city council for approval, 30 days after the termination of negotiations.

(e) The city manager shall ensure that the city maintains complete and accurate records of every appraisal, offer, and counteroffer associated with any attempt by the city to purchase or sell real property.

Section 2. For purposes of codification of any existing section of the Seminole City Code herein amended, words **underlined** represent additions to original text, words **~~stricken~~** are deletions from the original text, and words neither underlined nor stricken remain unchanged.

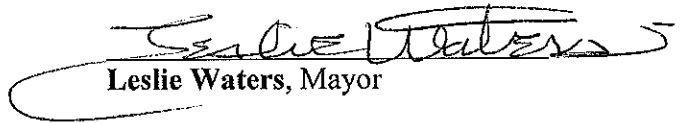
Section 3. If any section, subsection, sentence, clause, provision or word of this Ordinance is held unconstitutional or otherwise legally invalid, same shall be severable and the remainder of this Ordinance shall not be affected by such invalidity, such that any remainder of the Ordinance shall withstand any severed provision, as the Seminole City Council Board would have adopted the Ordinance and its regulatory scheme even absent the invalid part.

Section 4. The Codifier shall codify the substantive amendments to the Seminole City Code contained in Section 1 of this Ordinance as provided for therein, and shall not codify the exordial clauses nor any other sections not designated for codification.

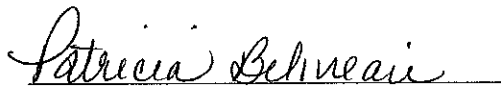
Section 5. Pursuant to Florida Statutes § 166.041(4), this Ordinance shall take effect immediately upon adoption.

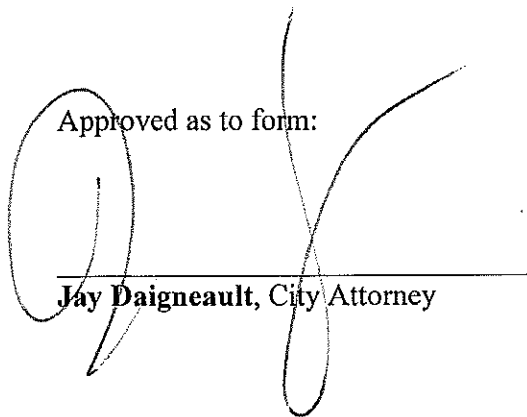
ADOPTED ON FIRST READING on the 9th day of October, 2018 by the City Council
of the City of Seminole, Florida.

ADOPTED ON SECOND AND FINAL READING on the 13th day of November,
2018 by the City Council of the City of Seminole, Florida.


Leslie Waters, Mayor

ATTEST:


Patricia Beliveau, City Clerk

Approved as to form:

Jay Daigneault, City Attorney