



Staff Report

May 8, 2018

TO: Honorable Mayor and Members of the Town Council
FROM: Sean Rabé, Town Manager
DATE: May 8, 2018
RE: Direction on Divestment of Town-Owned Property

Recommendation

Staff recommends the Council provide direction to Staff to move forward with the potential sale or lease of one of the Town-owned properties (WW Moulding Plant) by issuance of a Request for Proposals (RFP) for the subject property. Council should also provide direction as to any specific items that should be included in the RFP.

Issue Statement and Discussion

The Town Council previously provided direction to Staff to begin the process of potentially selling several Town-owned properties. Of those properties, the WW Moulding Plant property on Taylor Road has been a particular focus.

As noted in previous Staff reports, there are specific processes for divesting public properties. The first step in that process is obtaining an appraisal for the property. That appraisal has been completed, but it is not attached to this Staff report in order to maintain confidentiality.

At this point, Staff requests specific direction to prepare a RFP to gauge developer interest in the property. Staff believes it is important to not only look at the proposed purchase (or lease) price of the property, but to also consider the potential use that any buyer would propose. The reason for this is to ensure the property would be used in a way that provides a compliment to the Downtown area. Thus, Staff requests Council provide direction to include a requirement for a business plan in the RFP. Council should also provide direction as to any additional items to be included in the RFP.

Staff also requests the Council provide direction as to the potential of leasing the property (with a potential for a purchase at a later date). The advantage to potentially leasing (as opposed to selling) is that a project wouldn't need to provide up front capital in order to move forward with a business plan that would benefit the Downtown area. I believe it is important to keep all options on the table in order for the Town to realize the greatest benefit for the property's use.

A recent State law (AB 806, 2016) authorizes local governments to acquire, sell or lease property for the "furtherance of the creation of an economic opportunity." Once the Town has received the results of the RFP, the Town will need to follow a specific process to either sell or lease the property that includes approving the sale at a public hearing. The Town will need to prepare a report that discloses the estimated value of the property at that time. The Town can sell the property for less than fair market

value if it wishes, but the Town must provide an explanation for doing so. An explanation as to why the sale or lease of the property will assist in the creation of economic opportunity, as defined by statute, must also accompany the report. Additional findings for the lease of the property are also required.

CEQA Requirements

None.

Financial and/or Policy Implications

The recommended action has no financial implications.

Attachments

A. Text of AB 806

Assembly Bill No. 806

CHAPTER 503

An act to amend Sections 52200.2, 52200.6, 52201, and 52202 of the Government Code, relating to local government.

[Approved by Governor September 23, 2016. Filed with Secretary of State September 23, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 806, Dodd. Community development: economic opportunity.

Under existing law, before certain city, county, or city and county property is sold or leased for economic development purposes, approval of the sale or lease by the legislative body by resolution, after a public hearing, is required. Existing law requires that resolution to contain a finding that the sale or lease of the property will assist in the creation of economic opportunity, as defined.

This bill would recast these provisions to instead authorize a city, county, or city and county, with the approval of its legislative body by resolution after a public hearing, to acquire, sell, or lease property in furtherance of the creation of an economic opportunity, as defined. The bill would require the resolution to contain a finding that the acquisition, sale, or lease of the property will assist in the creation of economic opportunity and would require the creation of an economic opportunity to be subject to specified public notice and hearing provisions.

Existing law prohibits the use of eminent domain for economic development purposes.

This bill would prohibit a city, county, or city and county from selling, leasing, or otherwise transferring, at a price that is less than the fair market value, for economic development purposes, any real property that was acquired through eminent domain, except as specified.

Existing law authorizes a city, county, or city and county to establish a program under which it loans funds to owners or tenants for the purpose of rehabilitating commercial buildings or structures.

This bill would revise that authorization by requiring the loan to be in the form of a written loan agreement that includes a payment schedule, the terms for interest calculation, the rights and remedies of the parties in case of default, and any other material terms of the loan. The bill would require, prior to entering into that loan agreement, the city, county, or city and county to find, after a public hearing, that the assistance is necessary for the economic feasibility of the development and that the assistance cannot be obtained on economically feasible terms in the private market.

The people of the State of California do enact as follows:

SECTION 1. Section 52200.2 of the Government Code is amended to read:

52200.2. As used in this part, "economic opportunity" means any of the following:

(a) Development agreements, loan agreements, sale agreements, lease agreements, or other agreements that create, retain, or expand new jobs, in which the legislative body finds that the agreement will create or retain at least one full-time equivalent, permanent job for every thirty-five thousand dollars (\$35,000) of city, county, or city and county investment in the project after full capacity and implementation.

(b) Development agreements, loan agreements, sale agreements, lease agreements, or other agreements that increase property tax revenues to all property tax collecting entities, in which the legislative body finds that the agreement will result in an increase of at least 15 percent of total property tax resulting from the project at full implementation when compared to the year prior to the property being acquired by the government entity.

(c) Creation of affordable housing, if a demonstrated affordable housing need exists in the community, as defined in the approved housing element or regional housing needs assessment.

(d) Projects that meet the goals set forth in Chapter 728 of the Statutes of 2008 and have been included in an adopted sustainable communities strategy or alternative planning strategy or a project that specifically implements the goals of those adopted plans.

(e) Transit priority projects, as defined in Section 21155 of the Public Resources Code.

SEC. 2. Section 52200.6 of the Government Code is amended to read:

52200.6. (a) (1) This part shall not be interpreted to authorize the use of eminent domain for economic development purposes.

(2) For the purposes of this part, a city, county, or city and county shall not sell, lease, or otherwise transfer, at a price that is less than the fair market value, any real property that was acquired through eminent domain. This prohibition shall not apply to either of the following:

(A) Any real property governed by a long-range property management plan pursuant to Section 34191.5 of the Health and Safety Code.

(B) Any housing asset transferred to a city, county, or city and county pursuant to paragraph (1) of subdivision (a) of Section 34176 of the Health and Safety Code or subdivision (c) of Section 34181 of the Health and Safety Code, provided that the successor agency or the designated local authority in the affected jurisdiction has received a finding of completion from the Department of Finance pursuant to Section 34179.7 of the Health and Safety Code.

(b) The creation of an economic opportunity pursuant to this part shall be subject to the provisions of Section 53083.

(c) The provisions of this part shall be an alternative to any authority of a city, county, or city and county to create an economic opportunity or to

acquire, sell, or lease property for economic development, found in the Constitution, state law, local ordinance, or charter. This part does not limit, or in any way affect, the application of any other such laws.

SEC. 3. Section 52201 of the Government Code is amended to read:

52201. (a) (1) A city, county, or city and county may acquire property in furtherance of the creation of an economic opportunity. A city, county, or city and county may sell or lease property to create an economic opportunity. The acquisition, sale, or lease shall first be approved by the legislative body by resolution after a public hearing. Notice of the time and place of the hearing shall be published in a newspaper of general circulation in the community at least once per week for at least two successive weeks, as specified in Section 6066, prior to the hearing.

(2) The city, county, or city and county shall make available, for public inspection and copying at a cost not to exceed the cost of duplication, a report no later than the time of publication of the first notice of the hearing mandated by this section. This report shall contain both of the following:

(A) A copy of the proposed acquisition, sale, or lease.

(B) A summary that describes and specifies all of the following:

(i) The cost of the agreement to the city, county, or city and county, including land acquisition costs, clearance costs, relocation costs, the costs of any improvements to be provided by the city, county, or city and county, plus the expected interest on any loans or bonds to finance the agreements.

(ii) For the sale or lease of property, the estimated value of the interest to be conveyed or leased, determined at the highest and best uses permitted under the general plan or zoning.

(iii) For the sale or lease of property, the estimated value of the interest to be conveyed or leased, determined at the use and with the conditions, covenants, and development costs required by the sale or lease. The purchase price or present value of the lease payments which the lessor will be required to make during the term of the lease. If the sale price or total rental amount is less than the fair market value of the interest to be conveyed or leased, determined at the highest and best use, then the city, county, or city and county shall provide as part of the summary an explanation of the reasons for the difference.

(iv) An explanation of why the acquisition, sale, or lease of the property will assist in the creation of economic opportunity, with reference to all supporting facts and materials relied upon in making this explanation.

(b) The resolution approving the acquisition, sale, or lease shall be adopted by a majority vote unless the legislative body has provided by ordinance for a two-thirds vote for that purpose and shall contain a finding that the acquisition, sale, or lease of the property will assist in the creation of economic opportunity. For the sale or lease of property, the resolution shall also contain one of the following findings:

(1) The consideration is not less than the fair market value at its highest and best use.

(2) The consideration is not less than the fair reuse value at the use and with the covenants and conditions and development costs authorized by the sale or lease.

(c) The provisions of this section are an alternative to any other authority granted by law to cities to dispose of city-owned property.

SEC. 4. Section 52202 of the Government Code is amended to read:

52202. (a) A city, county, or city and county may loan funds to owners or tenants for the purpose of rehabilitating commercial buildings or structures. The loan shall be in the form of a written loan agreement that includes a payment schedule, the terms for interest calculation, the rights and remedies of the parties in case of default, and any other material terms of the loan.

(b) Prior to entering into a loan agreement pursuant to this section, the city, county, or city and county shall find, after a public hearing, that the assistance is necessary for the economic feasibility of the development and that the assistance cannot be obtained on economically feasible terms in the private market.