

October 23, 1997
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clerk 10/30/97, 1/20/98

Introduced By:

Larry Gossett
Larry Phillips
Cynthia Sullivan
Rob McKenna
Jane Hague

Proposed No.:

97-650

ORDINANCE NO.

12989

AN ORDINANCE relating to the disposition of surplus personal and real property, and amending Ordinance 12045, Section 10, as amended, and K.C.C. 4.56.100 and adding new sections.

PREAMBLE:

On April 14, 1997, the Council passed motion 10186 which expressed the council's support for the aggressive implementation of policies to provide county government resources for the storage, transportation, management and overall distribution of food to those in need. This support was based on the finding that 13.8 billion pounds of food, capable of feeding 49 million people, are annually disposed of in landfills throughout the United States and that demand for food from food banks in King County is considerable. This ordinance is a partial response to motion 10186. It expands the county's authority to use county surplus property to benefit non-profit organizations that provide services to the poor and infirm.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 12045, Section 10, as amended, and K.C.C. 4.56.100 are hereby amended to read as follows:

Sale of property - public auction or sealed bid. A. All sales of real and personal property shall be made to the highest responsible bidder at public auction or by sealed bid except when:

1. County property is sold to a governmental agency;

1 2. The county executive has determined an emergency to exist; or the county
2 council, by ordinance, has determined that unique circumstances make a negotiated direct
3 sale in the best interests of the public;

4 3. County real property is traded for real property of similar value, or when county
5 personal property is traded for personal property of similar value;

6 4. The property services division has determined that the county will receive a
7 greater return on real property when it is listed and sold through a residential or commercial
8 real estate listing service;

9 5. County personal property is traded in on the purchase of another article; and

10 6. Property has been obtained by the county through the proceeds of grants or
11 other special purpose funding from the federal or state government, wherein a specific public
12 purpose(s) is set forth as a condition of use for such property, said purpose(s) to be limited
13 to the provision of social and health services or social and health services facilities as defined
14 in ~~((Washington Statute RCW)) ((C))~~chapter 43.83D RCW, and it is deemed to be in the
15 best interest of the county, in each instance, upon recommendation by the county executive
16 and approval by the county council, that in order to fulfill said condition of use, the county
17 may sell or otherwise convey the property in some other manner consistent with the
18 condition of use; provided, that in the event such property is conveyed pursuant to the
19 provisions of this subdivision, the conveyee(s) shall be limited to private, nonprofit~~((;))~~
20 corporations duly organized according to the laws of the state of Washington, which
21 nonprofit corporations are exempt from taxation under USC § 501(c) as amended, and
22 which nonprofit corporations are organized for the purpose of operating social and health
23 service facilities as defined by ~~((Washington Statute RCW)) ((C))~~chapter 43.83D RCW.

1 7. The county property is sold for on-site development of affordable housing which
2 provides a public benefit, provided that the developer has been selected through a request for
3 proposals;

1. 4 8. It is deemed to be in the public interest to restrict the use of the project for provision
5 of social or health services or such other public purposes as the county deems appropriate.

6 9. The property services division, in consultation with the county executive and
7 the county council, may, in the best interests of the county, donate or negotiate the sale of
8 county surplus personal and/or real property with bona fide nonprofit organizations wherein
9 the nonprofit organizations provide services to the poor and infirm or with other
10 governmental agencies with whom reciprocal agreements exist. Such transactions will be
11 exempt from the requirements of fair market value, appraisal, and public notice. The
12 property services division also may, in the best interest of the county, procure services to
13 support King County in lieu of payment with nonprofit organizations who provide services
14 which will benefit the public. Such transactions are based upon the recommendation of the
15 property services division and the department having custodianship of the property. The
16 property services division shall maintain a file of appropriate correspondence or such
17 information which leads to a recommendation by the division to the county executive and
18 the county council to undertake such transactions, and such information shall be available
19 for public inspection at the property services division. The property services division may
20 also seek reimbursement from the benefiting organization for the administrative costs of
21 processing the surplus property.

2. 22 B. The county may, if it deems such action to be for the best public interest, reject
23 any and all bids, either written or oral, and withdraw the property from sale. The county

1 may then renegotiate the sale of withdrawn property, providing the negotiated price is
2 higher than the highest rejected bid.

3. 3 C. Whenever the procedures of a grant agency having an interest in real or
4 personal property requires disposition in a manner different from the procedures set forth in
5 this chapter, the property shall be disposed of in accordance with the procedures required
6 by this chapter unless the grant agency specifically requires otherwise.

7 SECTION 2. Rule-making for donations of property to non-profit

8 **organizations.** The executive shall formulate and present to the council for its review and
9 approval no later than April 30, 1998, administrative rules which shall govern the
10 distribution of county surplus personal and/or real property to non-profit organizations as
11 indicated in section 1, paragraph 9 above. These administrative rules shall include, but are
12 not limited to, program eligibility requirements for bona fide non-profit organizations, an
13 outline for selection of eligible organizations which includes participation and input from the
14 council recognizing geographic diversity throughout the county and guidelines for seeking
15 the reimbursement of administrative costs from benefiting organizations.

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12989

1 NEW SECTION. SECTION 3. This ordinance shall not preclude the council from
2 directing the distribution of surplus real and/or personal property during the county's annual
3 budget process.

4 INTRODUCED AND READ for the first time this 10th day of
5 November, 1997

6 PASSED by a vote of 12 to 0 on this 20th day of January, 19 98

7 KING COUNTY COUNCIL
8 KING COUNTY, WASHINGTON

9 Louise Miller
10 Chair

11 ATTEST:

12 [Signature]
13 Clerk of the Council

14 APPROVED this _____ day of _____, 19__

DEEMED ENACTED WITHOUT
COUNTY EXECUTIVES SIGNATURE.

15 DATED: January 30, 1998
16 [Signature]

17 _____
King County Executive

18 Attachments:



King County Executive
RON SIMS

January 30, 1998

Louise Miller
Chair, King County Council
1200 King County Courthouse

RECEIVED
90 JAN 30 PM 4: 17
CLERK
KING COUNTY COUNCIL

Dear Councilmember Miller:

By this letter, I am returning ordinance 12989 unsigned.

On October 23, 1997, I transmitted a proposed ordinance to provide the County the legal authority to donate County owned surplus property to non-profit organizations. Specifically, I asked for the authority to: 1) donate or negotiate the sale of surplus property to qualifying non-profit organizations, and 2) procure services in lieu of payment with non-profit organizations who provide services which will benefit the public. The Prosecuting Attorney's Office advised that we needed to amend the King County Code to provide the legal basis for donating property or procuring services in lieu of payment from non-profit organizations.

The ordinance I transmitted was subsequently amended by the Council with the addition of two new sections. Section 2 requires the County Executive to develop administrative rules to govern the distribution of County surplus property.

I agree with the Council's desire to establish a process and administrative rules for distributing County property to non-profit organizations. We need to be allocating our limited resources to the highest and best uses. Non-profit groups that compete for surplus property should know they are competing on equal ground. I believe allocating surplus County property should be based on established objective criteria, and not on which non-profit groups have the best contacts with elected officials.

Section 3 of ordinance 12989 appears to undermine the distribution process called for in Section 2. Section 3 states: "This ordinance shall not preclude the Council from directing the distribution of surplus real and/or personal property during the County's annual budget process." Section 3 is contrary to our mutual desire to have objective criteria which can be applied equitably to all requests.

Louise Miller
January 30, 1998
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Ordinance 12989 directs the County Executive to establish rules and at the same time says the Council will not be bound by those rules. I would prefer that we work together to establish mutually acceptable distribution criteria that can be applied to all requests for surplus property.

Subsequent to Council passage of Ordinance 12989, the Prosecuting Attorney's office has informed my office that there may be legal issues associated with the County's authority to donate real property. I am working with the Prosecuting Attorney's to address their concerns.

I would also like to work with the Council to address our respective policy concerns. In the coming weeks, I will be transmitting an ordinance amending ordinance 12989. Thank you and I look forward to your participation in developing an ordinance and proposed criteria for allocating surplus property to non-profit organizations.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron Sims", written over a large, stylized circular flourish.

Ron Sims
King County Executive