

Per WMC 5.32.030, Appraisal required: *“No lands or any interest in land shall be sold or exchanged unless the same has been appraised by a qualified appraiser within six months prior to the date fixed for the sale or exchange. The mayor shall be responsible to have such appraisal made and it shall reflect any restrictions on the use of the land as offered for sale. Alternatively, the latest available Matanuska-Susitna Borough assessed value may be used (see attachment). No land shall be sold or exchanged for less than the approved minimum appraised or assessed value.”*

Therefore, per City Council request, the City Administration shall obtain a commercial appraisal on the Meta Rose Square property. An ordinance shall be brought back for action by the City Council to identify the amount necessary to procure a commercial appraisal for Meta Rose Square before the land may be published for sale.

Once the bids are opened and a buyer is qualified, an ordinance shall be brought back to the City Council to authorize the Mayor to proceed with the sale.

Recommended Action: Direct Administration to bring back an ordinance to appropriate funds from the Assigned Land Bank portion of the General Fund, Fund Balance, to obtain an appraisal of the property referenced above. Further to direct Administration per WMC 5.32.040 to proceed with the sale of the property by sealed bid method of disposal. Once a buyer is identified, an ordinance authorizing the sale of the land will be brought forward to the Council to proceed with the sale. The timeline shall be as follows:

- September 8 – Introduction of ordinance to appropriate funds for appraisal.
- September 22 – Adoption of ordinance to appropriate funds for appraisal.
- No later than November 3 – Appraisal due.
- **November 24 – During regular City Council Meeting hold a Committee of the Whole to discuss the appraisal, any recommendations from Planning regarding terms or conditions of sale, and adjust dates as needed of how to proceed.**
- *Tentative* - No later than December 15 – Requests for bids due.
- *Tentative* - January 12 – Introduction of ordinance to authorize the sale of the property.
- *Tentative* - January 26 – Adoption of ordinance to authorize the sale of the property.

CITY OF
WASILLA
 • ALASKA •

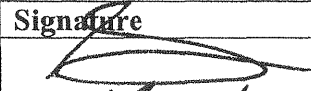


	Presented
Date Action Taken:	6/23/14
Other:	
Verified By:	K. Smith


CITY COUNCIL INFORMATIONAL MEMORANDUM

IM No. 14-12: Meta Rose Square

Originator: Public Works Director
 Date: June 11, 2014

Agenda of: June 23, 2014

Route to:	Department Head	Signature	Date
X	Public Works Director		6/16/14
X	Finance Director		6-16-14
X	Deputy Administrator		6-16-14
X	City Clerk	K. Smith	6.16.14

Reviewed by Mayor Verne E. Rupright: 

Attachments: Cameron Sharick Report (4 pages)

Summary Statement: Attached is a report from Cameron Sharick where she outlines the options for sale of the Meta Rose Square and limitations with respect to putting restrictions on a sale as suggested by the Planning Commission.

CAMERON SHARICK

LIMITED LIABILITY COMPANY

POSTAL
167 PARK AVENUE
WASILLA ALASKA 99654
USA

AREA CODE 1907
VOICE 376 3239
FACSIMILE 373 6883
DATA 376 3236

REPLY EMAIL
csharick@gsi.net

LAWYER

June 12, 2014
Archie Giddings
Public Works Director
City of Wasilla
290 E. Herning Avenue
Wasilla, AK 99654

RE: Meta Rose (Lot 5A, Block 1, Fred Nelson E, Plat 83-178)

Dear Mr. Giddings:

The following points are based on the information identified in this letter.

1. Subject Property.

In December 2009, COW purchased this property (Meta Rose) and another lot (Crazy Moose parking lot). The Meta Rose purchase included personal property (paintings, bench, restaurant fixtures and equipment) and assignments of 9 tenant leases (\$14,994.27/mo.).

The condition of title has not changed. See, 12/09 title policy and 6/14 owner's consultation report. There are currently 6 tenant leases (est. \$9200/mo.): American Lung Assn., Alaska Assn. of Conservation Districts, Pataya Sushi, Area 51 Hobbies, Flowers by Louise, Younique Boutique. A sale of this property would include an assignment of these leases, and restaurant fixtures and moveable equipment (required for Pataya tenant) plus other personal property on the premises which the City does not want to retain. The City's standard tenant lease (Sec. 12.12) says the City will be released from its obligations as landlord if the subject property is sold (with these leases being assigned to the buyer). The City would require a buyer to assume the leases and release the City from its landlord obligations as a condition of sale.

2. Sale with Restrictions.

Tina Crawford, City Planner, and I had detailed discussions on planning concerns that might be addressed by placing land use conditions on the sale of the property. To that end, she provided and I reviewed the Comprehensive Plan, Downtown Area Plan and the following records (including attachments): Wasilla Planning Commission Resolution 13-04AM, and IM 13-12 (Planning Commission Recommendation) and IM 14-03 (Council Discussion). In addition, I walked through the building and talked with the tenants.

- a. Overlay Zoning & Grandfather Rights. The Planning Department is developing design and use standards that will be incorporated in a Downtown Overlay Zoning District. Meta Rose would be included in that district. However, the Meta Rose building and uses (along with other similarly-situated, improved and operating properties) typically would be "grandfathered in" on the date the overlay zoning becomes effective. For this reason, overlay zoning may have little or no initial impact on Meta Rose and other improved, operating properties at the time the zoning district is created. Consequently, it may not matter whether the City sells Meta Rose before or after the overlay zoning district is created in this context.
- b. Restriction on Meta Rose Property. The Planning Department has considered whether land use restrictions should be placed on Meta Rose as a condition of sale. The general types of restrictions identified by Planning relate to design and uses compatible with the Downtown Area Plan, which are intended to be specifically identified through overlay zoning in the future.

In general, design standards in zoning apply to new construction (including after teardown of existing buildings) and exterior renovation of existing buildings (and/or landscaping, exterior signage, walkways, etc.). They do not apply to existing buildings or exterior features on the property. For example, design standards imposed through zoning typically would not apply to the Meta Rose building or other exterior features that exist on the date that overlay zoning becomes effective. Instead, the property would become subject to those rules when a triggering event occurred (post-zoning major renovation or rebuild). This balance preserves the existing property rights of land owners and allows zoning to achieve uniformity over time (including through new development of raw land, such as the Crazy Moose parking lot, and renovation of improved property in the zoning district).

In general, use standards in zoning are intended to achieve the desired mix of uses for district as a whole, not for a specific property. In addition, use standards often prohibit incompatible uses (such as no strip clubs) for the district as a whole, but do not impose use restrictions on just one specific property.

Currently, the Planning Department is in the process of developing specific design or use standards to be incorporated in the overlay zoning district. For that reason, we have no way of knowing whether any land use restriction imposed on the Meta Rose property today will be compatible with the as-yet unknown zoning standards to be implemented in the future. In that context, restrictions may and, likely often do, limit the pool of buyers because restrictions take away an owner's property rights and, in the case of Meta Rose, the buyer will have no guaranty that his neighbors (including competitors) will be subject to the same restrictions (since overlay zoning is not in place). That said, the City should impose specific restrictions on the Meta Rose property in anticipation of a sale if there is an important municipal purpose to be served.

3. Meta Rose Sale. The decision to sell, including timing, involves various factors. For example, the owner may have an immediate need for cash, the property may be too burdensome to retain or not useful, and/or the marketability of the property may seem favorable based on local conditions. Professionals, like brokers, appraisers, lawyers or accountants, may provide opinions and information to assist an owner. In the end, the owner is left to decide whether and when to sell, and those decisions depend on the owner's assessment of the factors which that owner decides are most important.

The following information was provided to me:

- a. Council Ordinance 09-76 (12/28/09): This ordinance says:
"the proceeds or any net gain from the future sale of said property, over and above cost, will be set aside in an account for the use of a future library."
- b. Council Resolution 10-06 (1/11/10): This resolution says the DeArmoun's sold Meta-Rose to the City with a \$500,000 discount to support a future library.
- c. Council AM 13-07 (3/11/13): This memorandum says Meta Rose was purchased for use as a library. Since a different site has been chosen, Meta Rose "is not needed for, or devoted to, a municipal purpose. Ownership of this property places the City of Wasilla in direct competition with the private sector retail property management entities." The Council directed the administration to proceed with the sale of Meta Rose and authorized the Mayor to obtain a broker's opinion.
- d. Planning Resolution 13-04 (8/13/13): This resolution recommends the City retain ownership of Meta Rose and continue to lease the building until the City identifies targeted land uses that are consistent with the Downtown Area Plan and will create a vibrant, revitalized downtown.
- e. IM 13-12 (9/9/13): This memorandum explained the Planning Commission recommendation above. It makes these points:

The Commission based its recommendation on the 2011 Comprehensive Plan and 2013 Downtown Area Plan Amendment, which “clearly outline the resident’s desire for a revitalized downtown that is walkable and contains a mix of land uses,” and “described the need for a City land bank so the City can purchase properties to incentivize development in the downtown area.”

The Commission agreed Meta Rose is an ideal location to service as a catalyst for future development and improvements in the downtown area. Prior to selling Meta Rose, the Commission proposed that the Council obtain a detailed future development plan and an updated market analysis to create a vibrant downtown. Then, it recommended Meta Rose could be sold through an RFP process to ensure future uses and/or redevelopment of Meta Rose will help stimulate growth and redevelopment in the downtown area.

Alternatively, the Commission recommended that, if the property is sold without taking these steps, the City should restrict the property or impose these conditions of sale: whether the structure can be torn down and rebuilt, whether it should be a single or mixed-use building, etc.”

- f. IM 14-03 (1/13/14): The Council held a Committee of the Whole to discuss the Meta Rose sale. The purpose was to inform the Council about past actions of the Council and Planning Commission, and to discuss this topic with the Administration. The City Clerk attachment said the hope was to see if there is a general consensus on a path forward to sell it now, hold on to it for a few years, give ideas on stipulation from the Planning Commission, and other processes that will need to be considered. The City Clerk also provided direction on Wasilla Municipal Code, Chapter 5.32, Sale or Lease of Public Lands.

The State DCCED Division of Community and Regional Affairs published a manual titled *Municipal Land Acquisition and Disposal in Alaska* to assist local governments. It says (Appendix 6, p. 281):

The essential first step in a local government’s consideration of the sale of public land is to answer the question: “Just what are we trying to accomplish?” Most problems in a sale stem from the fact that the local governing body never had a clear answer to this question in the first place.

In general, the COW information recited above identifies two competing goals: (1) dispose of the property (now or in the short term) because it is no longer needed as a library site; and, (2) retain the property with the intention of selling it at some future time under conditions that would make the property a keystone of the Downtown Area Plan. The Council should choose one of the two goals, which will determine the next steps needed to implement that goal.

The following information might help the Council choose the best goal:

Troy Tankersley, City Finance Director, could explain, in municipal accounting/financial terms, points that he thinks are important, such as:

- What this Ordinance 09-76 language means: “the proceeds or any net gain from the future sale of said property, over and above cost, will be set aside in an account for the use of a future library.” Specifically, what is the City’s “basis” in Meta Rose (one of two properties) and how are the “proceeds,” “net gain” and “cost” terms defined for this sale. This information will help the Council understand how money obtained from the sale will be committed.
- Meta Rose’s performance (income/expense) annually from 2010-present. This data will give the Council hard numbers on income v. cost. (It is important to identify or estimate “hidden costs,” meaning time and resources that City employees devote to operations, accounting, etc.

for this property.) Also, this information will allow the Council to see the overall trend under Municipal ownership. In that context, AM 13-07 points out that the City purchased this property for a public library, not to become a mall landlord which is now the case. That said, the City can retain the property and continue current operations if, in general, it has a municipal purpose that is in the public interest (for example, to delay a sale for market reasons, or to later use as a Downtown Area keystone per Planning recommendation).

- A projected budget, and/or main expense items (including items in next paragraph).

You might address points that you think are important on the physical plant and mall operations with the Council. For example, the building is about 30-years old. One consideration in retaining the property is whether major maintenance, repairs or replacements will be needed (since there is no reserve fund). Also, you might give the Council a copy of the 12/14/09 Burkhart Croft Analysis, which details the various building condition, deficiencies, etc. on the acquisition date. Given the age and condition of the physical plant, the pool of buyers would probably be reduced if the City decides to sell the property and places conditions related to whether the building can be torn down or rebuilt, single or mixed use and similar restrictions. You should also talk to the Council about the Main Street Couplet/Rehabilitation Project, and whether it would likely be a positive factor to a buyer today.

A broker's opinion might be useful. The Council should also take into account the time that the funds from the sale of this property will be needed for the library, and consider the difference in expected return between retaining the property (FMV) or holding sales proceeds in an account in the interim period.

If the Council decides to sell the property, it will need to identify any specific land use restrictions. Also, it will need to decide whether to sell through a public auction or sealed bid (RFP) to the highest qualified bidder. WMC 5.32.040 A. Then, the Council can direct the administration to prepare the auction or RFP package for Council review and approval, after which the auction or RFP process can proceed and the property be sold. (Side note: WMC requires an appraisal that is not more than 6-months old as of the disposal of property, and that appraisal must include any restrictions on the use of the land. WMC 5.32.030.)

If the Council decides to retain the property, it is not necessary to take any disposal action at this time. However, I want to mention an alternative disposal provision that is useful in special situations, such as the one outlined by the Planning Commission. WMC 5.32.A.1.(d) provides:

The mayor may, with the approval of the city council by ordinance, negotiate a sale or exchange of city land without public auction or sealed bid if the following conditions exist: For a particular stated purpose in the best interests of the city, and the council approves the sale with appropriate findings and conditions.

Thank you for giving me the opportunity to work on this project. Please let me know if you have any questions or need further information.

Sincerely,

Cameron Sharick

Cameron Sharick



MATANUSKA-SUSITNA BOROUGH

Real Property Detail for Account: 2523B01L005A

Site Information

Account Number	2523B01L005A	Subdivision	NELSON FRED RSB B/1E
Parcel ID	37091	City	Wasilla
TRS	S17N01W10	Map	Tax Map WA11
Abbreviated Description (Not for Conveyance)	NELSON FRED RSB B/1E BLOCK 1 LOT 5A		

Site Address 290 N YENLO ST

Ownership

Owners	WASILLA CITY OF	Buyers	
Primary Owner's Address	290 E HERNING AVE WASILLA AK 99654-7030	Primary Buyer's Address	

Appraisal Information

Appraisal Information				Assessment			
Year	Land Appraised	Bldg. Appraised	Total Appraised	Year	Land Assessed	Bldg. Assessed	Total Assessed*
2014	\$360,000.00	\$1,507,400.00	\$1,867,400.00	2014	\$360,000.00	\$1,507,400.00	\$1,867,400.00
2013	\$360,000.00	\$1,507,400.00	\$1,867,400.00	2013	\$360,000.00	\$1,507,400.00	\$1,867,400.00
2012	\$360,000.00	\$1,542,000.00	\$1,902,000.00	2012	\$360,000.00	\$1,542,000.00	\$1,902,000.00

Building Information

Structure 1 of 1

Business	META ROSE SQUARE	Residential Units	0
Use	Retail General Merchandis	Condition	Standard
Design	Commercial	Basement	Partial
Construction Type	Frame	Year Built	1983
Grade	None	Foundation	Concrete Block
Building Appraisal	\$1507400	Well	Well P - Public Water
Septic	Septic P - Public Septic		

Building Item Details

Building Number	Description	Area	Percent Complete
Tax/Billing Information			
Year	Certified	Zone	Mill
2014	Yes	0035	11.652
2013	Yes	0035	11.842
2012	Yes	0035	11.661
		Tax Billed	
		\$21758.95	
		\$22113.75	
		\$22179.22	
		Recorded Documents	
		Date	Type
		12/30/2009	WARRANTY DEED (ALL TYPES)
		Recording Info (offline link to DNR)	Palmer 2009-028508-0

Tax Account Status †

Status	Tax Balance	Farm	Disabled Veteran	Senior	Optional	Total
Current	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

Land and Miscellaneous

Gross Acreage	1.04	Taxable Acreage	1.04	Fire Service Area	130 Wasilla Lakes FSA	Road Service Area	No Borough Road Service see the City of Wasilla Website
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* Total Assessed is net of exemptions and deferrals, rest, penalties, and other charges posted after Last Update Date are not reflected in balances.

Last Updated: 7/31/2014 4:00:55 AM

† If account is in foreclosure, payment must be in certified funds.

Print

Wasilla, AK Code of Ordinances

Chapter 5.32 SALE OR LEASE OF PUBLIC LANDS

Sections:

- 5.32.010 Lands available.
- 5.32.020 Qualifications of applicants or bidders.
- 5.32.030 Appraisal required.
- 5.32.040 Methods of disposal.
- 5.32.050 Public notice.
- 5.32.060 Council approval.
- 5.32.070 Conditions of sale.
- 5.32.080 General sale procedures.
- 5.32.090 Lease procedures.
- 5.32.100 Negotiated sales and exchanges.
- 5.32.110 Negotiated leases.
- 5.32.115 Leases of space in city buildings.
- 5.32.120 Lease of airport property.

5.32.010 Lands available.

All lands which the city holds title, and which in the opinion of the council are not needed for, or devoted to, a municipal purpose, may be leased or sold, as hereinafter provided for, and in such case where such sale or lease would be in the best interest of the public. (Prior code § 7.16.010)

5.32.020 Qualifications of applicants or bidders.

- A. An applicant or bidder for a lease or purchase must be:
 - 1. A citizen of the United States and nineteen (19) years of age or over;

2. A permanent resident who has filed a declaration of intention to become a citizen and be nineteen (19) years of age or over; or

3. A group, association or incorporation which is authorized to conduct business under the laws of Alaska.

B. A person acting as an agent for a qualified bidder must independently meet the requirements of this section and must file with the mayor, prior to the time set for the auction, a proper power of attorney or a letter of authorization creating such agency. The agent shall represent only one principal, who must meet the qualifications of this section.

C. A person is not a qualified applicant or bidder if:

1. He or she has failed to pay a deposit or payment due to the city in relation to city land in the previous five years and full payment, including interest at the legal rate, is not made;

2. He or she is currently in breach or default on any contract or lease involving land in which the city has an interest;

3. He or she has failed to perform under a contract or lease involving city land in the previous five years and the city has acted to terminate the contract or lease or to initiate legal action; or

4. The city has other good cause to believe that the person is unlikely to make payment or responsibly perform under the lease or other contract. (Prior code § 7.16.020)

5.32.030 Appraisal required.

No lands or any interest in land shall be sold or exchanged unless the same has been appraised by a qualified appraiser within six months prior to the date fixed for the sale or exchange. The mayor shall be responsible to have such appraisal made and it shall reflect any restrictions on the use of the land as offered for sale. Alternatively, the latest available Matanuska-Susitna Borough assessed value may be used. No land shall be sold or exchanged for less than the approved minimum appraised or assessed value. (Prior code § 7.16.030)

5.32.040 Methods of disposal.

Land, or any interest in land may be disposed of under one of the following procedures as approved by the city council.

A. By public auction or sealed bid to the highest qualified bidder; and

B. By negotiated sale, lease or exchange as provided in Sections 5.32.100 and 5.32.110. (Prior code § 7.16.040)

5.32.050 Public notice.

A. The public notice procedure set forth by subsections B and C of this section are not intended to apply to “temporary use permits,” as defined and set forth in Section 5.32.060.

B. Sale or Lease of Land. Except as otherwise provided, public notice shall be given of any sale or lease of public lands or any interest therein. Notice shall be published once a week for three consecutive weeks preceding the time of sale or lease stated in the notice in at least one newspaper of general circulation in the vicinity in which the land or interest therein is to be sold or leased. In no event shall the sale or lease be held less than nine days nor more than three weeks following the last date of publication. In addition to the newspaper publications a notice of sale or lease shall also be posted in three public places. Such notice shall set forth a description of the land and the interest therein to be sold or leased and the time, place and general terms of the sale or lease and limitations.

C. Negotiated Sales, Lease and Exchanges. If disposal of land or interest in land is authorized by negotiated sale or lease, or by exchange of lands, public notice or the ordinance approving the disposal shall be given in the same manner as for other ordinances and a public hearing shall be held. (Prior code § 7.16.050)

5.32.060 Council approval.

A. "Temporary use permits," as defined by this subsection, are not subject to the formal lease requirements specified by the terms of Section 5.32.050 nor are temporary use permits subject to the requirements of council approval as stated in Section 5.32.090(B), (C) and (D). Similarly, the lease procedures provided for by Sections 5.32.090 and 5.32.110 are not intended to apply to temporary use permits. The mayor is granted the authority to exercise his or her discretion to permit the use of city-owned land and/or improvements thereon for temporary use if the mayor, in his or her discretion, finds the following conditions to have been met:

1. The land and/or improvements are not needed or necessary, during the anticipated term of use, for the normal and ordinary activities of the city;
2. The temporary use is not anticipated to exceed six months;
3. The purpose of the temporary use permit is for an activity or purpose of nonprofit character;
4. The temporary use will be compatible with the conduct of regular and ordinary city business and the use of other city offices and property;
5. The activities contemplated by the temporary use occupant will be nondiscriminatory and based upon principles of equal opportunity;
6. The temporary use occupant will provide general liability insurance and agree to hold the city harmless in the event of claims for injury or damage; and
7. The temporary use occupant shall agree to pay a permit fee, in an amount to be established in the discretion of the mayor, intended to assist the city in the costs related to provision of utilities, maintenance, repairs and management and other such similar costs incurred by the city in maintaining such land and/or improvements thereon.

B. Any sale, lease or exchange of city land shall be approved by the council by ordinance after consideration of the recommendations of the planning commission. The ordinance shall identify the parcels for sale, lease or exchange, the manner of disposition and any special terms

and conditions thereof. Any other disposition of an interest in city land shall be approved by the city by resolution.

C. No public auction, deed or contract purporting to dispose of or convey any interest in city land is valid or binding unless the disposal has been approved by the council or as otherwise provided within this title. (Prior code § 7.16.060)

5.32.070 Conditions of sale.

Any sale or other disposition of city lands or any interest in lands shall be subject to terms and conditions as set forth in this chapter and in the city ordinance or resolution approving the disposition. The mayor may impose additional conditions, limitations and terms for the protection of the interest of the city and the public. (Prior code § 7.16.070)

5.32.080 General sale procedures.

A. All applications for purchase or lease of city lands shall be filed with the city on appropriate forms. Each application for lease or sale shall be accompanied by a ten dollar (\$10.00) filing fee. Filing fees are not refundable. The filing of an application for purchase shall not in any way vest any right in the applicant to the land or to the use of the land applied for.

B. Public auctions shall be held by the mayor or his or her representative. At the completion of the auction of each tract of land, the mayor or his or her representative shall indicate the apparent high bidder.

C. The apparent high bidder shall concurrently deposit with the city not less than ten (10) percent of the high bid, or in case of a lease offering, an amount equal to the annual rent. Lands to be purchased for a principal sum of five hundred dollars (\$500.00) or less will not be sold on contract but will be paid for in full.

D. Upon deposit of the required sum by the apparent high bidder, the mayor or his or her representative shall immediately issue a receipt containing a description of the land or interest therein sold, the price bid and the terms of the sale, which receipt shall be acknowledged in writing by the bidder. Upon completion of the final payment on the contract of purchase, the city will issue to the vendee a quitclaim deed. A contract of sale or lease in a form approved by the city shall be signed by the purchaser or lessee.

E. The council shall ratify the sale or lease, or it may reject any and all bids in the best interest of the city. Upon ratification, the contract of sale or lease shall be signed by the mayor and clerk on behalf of the city. (Prior code § 7.16.080)

5.32.090 Lease procedures.

A. General Regulations. In addition to the regulations governing leasing as set forth within sale procedures above, the additional regulations and procedures set forth below shall apply specifically to leases.

B. Expiration. Unless the lease is renewed or sooner terminated as provided herein, the lessee shall peaceably and quietly leave, surrender, and yield up unto the lessor all of the leased land on the last day of the term of the lease.

C. Renewal. If, at the expiration of any lease of any lands hereunder, the lessee desires a renewal lease on the land, properties, or interests covered thereby, he or she shall, not sooner than one hundred eighty (180) days prior to the expiration, make application for a renewal lease in writing on forms provided entitled "Application for Renewal of Lease," certifying under oath as to the character and value of all improvements existing on the lands, properties or interests therein, the purpose for which he or she desires to renew the lease, and such other information as the mayor may require. The applicant shall deposit with the mayor an amount equal to the annual rent. The mayor shall upon recommendation of the planning commission and direction of the council issue a renewal of the lease to the lessee. The date that the application for renewal of lease is presented to the office of the mayor, as evidenced by the date stamped thereon, whether delivered or forwarded by regular, certified or registered mail, shall be binding.

D. Subdivision Regulations. Leases for terms longer than ten (10) years shall comply with the Matanuska-Susitna Borough subdivision regulations. (Prior code § 7.16.090)

5.32.100 Negotiated sales and exchanges.

A. The mayor may, with the approval of the city council by ordinance, negotiate a sale or exchange of city land without public auction or sealed bid if the following conditions exist:

1. The application to purchase or exchange city land is: (a) by an owner of property contiguous on a side with the city land applied for and the purchase is necessary for the proper utilization of the owner's contiguous property; (b) by the United States, the state or a political subdivision; (c) by a public utility for facilities serving the general public; (d) for a beneficial new industry; or (e) for a particular, stated purpose in the best interests of the city, and the council approves the sale with appropriate findings and conditions;

2. The land so sold or exchanged shall not be used by the vendee, his or her heirs or assigns for any purpose other than that for which it has been classified by the city council at time of sale or unless otherwise zoned subsequent to sale;

3. No such sale or exchange shall be made if the result of such sale or exchange were to hinder or prevent the utilization of a larger parcel of city land to its best advantage;

4. Such sale or exchange is to the best interest of the city.

B. Negotiated sales shall be subject to all other requirements and conditions applicable to sales under this chapter. (Prior code § 7.16.100)

5.32.110 Negotiated leases.

A. The mayor may, with the approval of the council by ordinance, negotiate a lease of city land without public auction or sealed bid and without voter ratification under the following conditions:

1. The lease is for a beneficial new industry;

2. The lease is for a public purpose, to a governmental agency or nonprofit organization authorized to carry out the public purpose; or

3. The lease is to a public utility for a site for public utility facilities.

B. Leases authorized under this section shall be subject to all other requirements and conditions applicable to leases under this chapter, except that no appraisal of the leased property is required for a lease to a public utility under subsection (A)(3) of this section.

C. An application to lease city lands for a beneficial new industry under subsection (A)(1) of this section, or for a public purpose under subsection (A)(2) of this section shall be made in the same manner as other applications to lease city land and shall include a plan for development and use of the property requested. To approve an application under subsection (A)(1) of this section, the council must find that the proposed use of city land is for a beneficial new industry. To approve an application under subsection (A)(2) of this section, the council must determine that the proposed use of city land is for a worthwhile public service, that there will be no discrimination in providing the service, and that the use will be nonprofit. The city may, from time to time, make such other requirements as it deems proper before the issuance of such leases. The lessee's failure to develop and use the land in accordance with the approved plan may result in revocation of the lease. (Ord. 08-16(SUB) § 2, 2008; Ord. 02-20 § 2, 2002; prior code § 7.16.110)

5.32.115 Leases of space in city buildings.

This section applies to the leasing of space in city-owned buildings, to the exclusion of the provisions of all other sections of this chapter. The mayor may, with the approval of the council by resolution, award a lease of space in a building owned by the city either by negotiation or to the person that submits the best proposal in response to a request for proposals. The lease shall be for one or more of the following uses:

A. A government agency or nonprofit organization providing a public service.

B. The provision of goods or services, on either a for-profit or nonprofit basis, that support or supplement the public uses or functions that are located in the building.

C. Provide revenue to the city from the productive use of building space that will not be required for any public purpose during the term of the lease. (Ord. 08-20 § 2, 2008)

5.32.120 Lease of airport property.

A. General. This section applies to the lease of airport property, to the exclusion of the provisions of all other sections of this chapter. Airport property may be leased through an application or sealed bid process.

B. Application Process. An applicant desiring to lease airport property shall submit an application to the city. The application shall contain:

1. Name, address and phone number of applicant;

2. Identification of area requested;

3. A description of the activity to be conducted;
4. A scale drawing depicting the proposed development, including but not limited to location, size and height of buildings, identification of materials to be installed on the property, and proposed location of all utility connections. This drawing must show the relationship between the development, the property lines, and any relevant development on adjacent or other properties;
5. If the proposed use is commercial, a written business plan for the activity to be conducted; and
6. Any and all additional information which may be requested by the city.

C. Action On Application. The city shall process applications depending upon use as follows:

1. For private use, such as a hanger or tie-down, where the building is less than ten thousand (10,000) square feet, and the term of the lease is ten (10) years or less, the application and lease may be approved by the mayor after administrative review and evaluation.

2. For a small commercial use, where the building is less than ten thousand (10,000) square feet and the term of the lease is ten (10) years or less, the application and lease may be approved by the mayor after administrative review and evaluation.

3. For any other use, the application will be reviewed by administration, submitted to the planning commission for review and recommendation, and then submitted to the city council for final action. Private or small commercial use may also be submitted to the planning commission and the city council if, in the opinion of the mayor, such submittal is appropriate under the circumstances.

4. For all uses, the city may accept, reject or place conditions on the acceptance of any application to lease airport property. The city may also require the prepayment by applicant of certain necessary costs such as administrative costs, surveying, subdividing, utility installation, soils testing, etc.

D. Sealed Bid Process. The city council may make specific areas of the airport available for lease for general or specific development through a sealed bid procedure under conditions to be specified by the city council. In this process, the city reserves the right to take into consideration factors other than lease rate, and may award the property to any bidder whose proposal is deemed to be in the best interests of the city, regardless of lease rate proposed. In addition, the city reserves the right to reject any and all bids or proposals.

E. Lease Form. A lease for airport property shall include certain provisions, as follows:

1. A requirement that the use of the property be in accord with the airport development plan, and that the use of the property shall not violate any condition or requirement placed on the property or the airport itself by the city, the state of Alaska, or the Federal Aviation Administration;
2. Lease rate, term, rental adjustment and other provisions that are in accord with the requirements and policy of the Federal Aviation Administration;
3. A provision prohibiting assignment or sublease without the approval of the city; and

4. A provision authorizing the granting of a security interest by the lessee in the leasehold interest for the purpose of securing financing for the construction of improvements on the property.

F. No Warranties. By classifying or leasing airport property, the city expressly does not warrant that the land is suited for the use proposed or authorized under the classification or lease, and no express or implied warranty or guaranty is given as to the present or any future condition of the property or that it shall be profitable to employ the land for the proposed or authorized use. (Prior code § 7.16.125)