

original

CITY OF LEROY
ILLINOIS

ORDINANCE NO. 2⁵⁹259

AN ORDINANCE AMENDING THE MUNICIPAL CODE, LeROY, ILLINOIS, 1975, CHAPTER 3,
CITY ADMINISTRATION, SECTION 3.05 "CITY CONTRACTS"

ADOPTED BY THE CITY COUNCIL OF THE
CITY OF LEROY, ILLINOIS,
THIS 20th DAY OF January, 19 86.

Published in pamphlet form by
authority of the City Council
of the City of LeRoy, McLean
County, Illinois, this 20th day
of January, 19 86.

AN ORDINANCE AMENDING THE MUNICIPAL CODE, LeROY, ILLINOIS, 1975, CHAPTER 3, CITY ADMINISTRATION, SECTION 3.05, "CITY CONTRACTS".

WHEREAS, the legislature of the State of Illinois has adopted, by Public Act 84-847, an amendment to Chapter 24, paragraph 4-5-11, Illinois Revised Statutes 1983 (as amended), providing that any work or other public improvement which is not to be paid for in whole or in part by special assessment or special taxation, when the expense thereof will exceed \$2,500.00 and now amended to read \$5,000.00 in place of the aforesaid \$2,500.00, said public act being effective January 1, 1986, and

WHEREAS, said public act has also amended Chapter 24, Section 8-9-1, Illinois Revised Statutes 1983 (as amended), providing in municipalities of less than 500,000, except as otherwise provided in Articles 4 and 5 of said Chapter 24, any work or other public improvement which is not to be paid for in whole or in part by special assessment or special taxation, when the expense thereof will exceed \$4,000.00, now amended to read \$5,000.00, as set forth in the aforesaid paragraph,

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and City Council of the City of LeRoy, in lawful meeting assembled, as follows:

Section 1. That Chapter 3, Section 3.05 (a) is hereby amended and Ordinance No. ~~159~~, Section 1 (a), adopted February 1, 1982, is also hereby amended to read "\$5,000.00" in place of "\$4,000.00" wherever the latter number shall appear in the aforesaid Section 3.05 (a) and Section 1 (a) of Ordinance 108 as aforesaid.

Section 2. That this Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as required by law.

PASSED by the Mayor and City Council of the City of LeRoy, Illinois, on the 20th day of January, 19 86, and deposited and filed in the office of the city clerk in said city on that date.

Aldermen elected 6
Aldermen present 6

AYES Jerry Davis, Michael Hillard, David King, Patrick Derby, Gary Builta
Michael Hanafin
NAYS Noen

Juanita Dagley
Juanita Dagley, City Clerk
of the City of LeRoy, Illinois

APPROVED by the Mayor of the City of LeRoy, Illinois, on the 20th day of January, 19 86.

Yakov Mos
Mayor of the City of LeRoy, Illinois

ATTEST:

(Seal)
Juanita Dagley
Juanita Dagley, City Clerk of
the City of LeRoy, Illinois

CERTIFICATE

I, Juanita Dagley, certify that I am the duly elected and acting municipal clerk of the City of LeRoy, Illinois County, Illinois.

I further certify that on January 20, 19 86, the Corporate Authorities of such municipality passed and approved Ordinance No. 259, entitled:

AN ORDINANCE AMENDING THE MUNICIPAL CODE, LeROY, ILLINOIS, 1975, CHAPTER 3, CITY ADMINISTRATION, SECTION 3.05 "CITY CONTRACTS",

which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 259, including the Ordinance and a cover sheet thereof was prepared, and a copy of such Ordinance was posted in the municipal building, commencing on January, 19 86, and continuing for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the municipal clerk.

Dated at Le Roy, Illinois, this 20th day of January, 19 86.

(seal)

Juanita Dagley
Municipal Clerk

MEMO FROM

HUNT HENDERSON

DATE January 16, 1986 TIME _____

TO Juanita Dagley, City Clerk, City of LeRoy

In regard to publication of the Notice, I would recommend making a Notice somewhat like the one we did before, but in regard to the bicycle parts and whole bicycles, I suggest that Notice be made in a separate paragraph or sentence in the ad that there are also a number of bicycle parts and bicycles being sold and that they will be sold as one lot and that if any of them are reclaimed by the lawful owner prior to the time of the sale then any bidder bidding on the entire lot will be entitled to withdraw his bid or reduce it prior to the time it is accepted by the city council.

This is necessary because of the provisions of Paragraph 143, Chapter 141, 111. Revised Statutes, which requires that up to the time of the sale of unclaimed property the lawful owner should have the right to reclaim it where it has been held by the police department for a period of time.

Hunt

142. Property believed to be abandoned, etc.—Inquiry and notice to owner—Return of property

§ 2. Such property believed to be abandoned, lost or stolen or otherwise illegally possessed shall be retained in custody by the sheriff, chief of police or other principal official of the law enforcement agency, which shall make reasonable inquiry and efforts to identify and notify the owner or other person entitled to possession thereof, and shall return the property after such person provides reasonable and satisfactory proof of his ownership or right to possession and reimburses the agency for all reasonable expenses of such custody.

143. Sale of unclaimed property or transfer of custody

§ 3. If the identity or location of the owner or other person entitled to possession of the property has not been ascertained within 6 months after the police department or other law enforcement agency obtains such possession, the sheriff, chief of police or other principal official thereof shall effectuate the sale of the property for cash to the highest bidder at a public auction, notice of which (including time, place and a brief description of such property) shall be published at least once in a newspaper of general circulation in the county wherein such official has authority at least 10 days prior to such auction. However, if the sheriff or chief of police determines that the interests of the public would best be served thereby, he may transfer custody of the property to the county, city, village or incorporated town of which government his law enforce-

ment agency is a branch, rather than effectuating the sale of the property by public auction. Property offered but not sold at such public auction may be offered and sold at a subsequent public auction without such notice.

Amended by P.A. 83-146, § 1, eff. Jan. 1, 1984.

144. Deposit of proceeds

§ 4. Proceeds of the sale of the property at public auction, less reimbursement to the law enforcement agency of the reasonable expenses of custody thereof, shall be deposited in the treasury of the county, city, village or incorporated town of which government the law enforcement agency is a branch.

145. Recovery of property by owner or person entitled to possession—Limitation

§ 5. The owner or other person entitled to possession of such property may claim and recover possession of the property at any time before its sale at public auction, upon providing reasonable and satisfactory proof of ownership or right to possession and reimbursing the law enforcement agency for all reasonable expenses of custody thereof.

146. Damages occasioned by acts or omissions

§ 6. No person shall be responsible for consequent damages to another occasioned by an act or omission in compliance with this Act.

CHAPTER 142**UNDERWRITERS' PATROL**

The legislation formerly included under this chapter heading was repealed by P.A. 79-709, § 1, eff. Oct. 1, 1975.

CHAPTER 143**UNITED STATES**

The legislation formerly included under this chapter has been transferred to ch. 1, General Provisions.

MEMO FROM

HUNT HENDERSON

DATE January 13, 1986 TIME _____

TO Juanita Dagley, City Clerk
City of LeRoy

Dear Juanita:

Re: Ordinance providing for and approving
the sale of personal property of
the City of LeRoy

Dear Juanita:

Enclosed please find the original of the above-referenced ordinance which I have prepared along with 3 photocopies of the same. Please return one of the signed copies to me. Also enclosed please find a copy of the notice used the last time that we had one of these sales.

For future information Chapter 24, paragraph 11-76-4 of the Illinois Revised Statutes, deals with the sale of personal property by a municipality and a copy of that statute is attached for your information. Please note that no article of personal property owned by the city may be turned in as part of the purchase price on a purchase of new or other equipment except when it is done thru the use of competitive bids such as we have done for the police cars. Had there been a trade-in offered by the city on the purchase of the garbage truck we would have had to do so by competitive bids. So long as we are buying an item of personal property outright we need not do so thru competitive bids.

Sincerely yours,

Hunt Henderson
Hunt Henderson

HH/pb
Enc.

accessories, or for receiving and discharging passengers and, or cargo, are exempt from the requirements of this Section.

Amended by Laws 1963, p. 2217, § 1; Laws 1967, p. 2331, § 1; Laws 1967, p. 3425, § 1; Laws 1967, p. 3435, § 1; Laws 1968, p. 519, § 1, eff. July 1, 1969.

1 Chapter 67½, ¶ 91.13.

2 Chapter 67½, ¶¶ 91.112, 91.122 and 91.131.

Notes of Decisions

Review 2

1. Construction and application

General sale provisions of this paragraph and ¶ 11-76-2 of this chapter were inapplicable to transfer of land by village to city. *Tynatishon v. Herbert*, 1972, 8 Ill.App.3d 954, 291 N.E.2d 51.

A municipality selling real estate no longer needed for public use does not, if it accepts any bid, have discretion to accept any but the highest

bid. *Templeman v. City of Rochelle*, 1965, 52 Ill.App.2d 201, 201 N.E.2d 862.

2. Review

Issue whether village's ordinance, which authorized sale of village-owned property to private persons for low-income housing and superseded fair market value requirement and three-fourths vote requirement for acceptance of a bid, had been validly enacted pursuant to village's home rule powers was moot where private sale of the property was rescinded and it was sold by public bidding. *Lurie v. Village of Skokie*, App.1978, 20 Ill.Dec. 911, 380 N.E.2d 1120.

11-76-3. Deed of conveyance

§ 11-76-3. When the ordinance has been adopted and the consideration paid or secured, as provided in Section 11-76-2, the mayor, or president, and the municipal clerk, may convey the real estate and transfer it, by proper deed of conveyance, stating therein the consideration therefor, with the seal of the city or village.

Amended by Laws 1967, p. 3435, § 1, eff. Aug. 31, 1967.

11-76-4. Sale of personal property

§ 11-76-4. Whenever a city or village incorporated under any general or special law, other than a city or village of 500,000 or more population, owns any personal property which in the opinion of three-fourths of the corporate authorities then holding office, is no longer necessary or useful to, or for the best interests of the city or village, such a majority of the corporate authorities then holding office, at any regular meeting or at any special meeting called for that purpose, (1) by ordinance may authorize the sale of that personal property in such manner as they may designate, with or without advertising the sale, or (2) may authorize any municipal officer to convert that personal property into some other form that is useful to the city or village by using the material in the personal property, or (3) may authorize any municipal officer to convey or turn in any specified article of personal property as part payment on a new purchase of any similar article. However, no article shall be turned in as part of the purchase price on any purchase except upon receipt of competitive bids, in such manner as may be prescribed by ordinance, after notice to all bidders that the article will be turned over as part of the purchase price.

In cities or villages of 500,000 or more population, the sale of any such personal property shall be governed by the provisions of Division 10 of Article 8.1 Amended by Laws 1967, p. 3425, § 1, eff. Aug. 31, 1967.

1 Paragraph 8-10-1 et seq. of this chapter.

Notes of Decisions

1. In general

The 1933 amendment of Street Railways Act to provide for discontinuance of operation and for "sale or disposal" as city council might determine subject to approval of electorate by referendum did not by implication limit the powers of utilities operating under the Municipal Ownership Act. *Nordine v. Illinois Power Co.*, 1965, 32 Ill.2d 421, 206 N.E.2d 709.

Because acquisition and operation of a municipal utility must receive approval of electorate through referendum does not mean that referendum is likewise required before discontinuance and sale, since such a referendum would be directory only. *Id.*

An agreement for combined sale by city of real estate and personal property comprising electric utility was a nullity since city council was without authority to make a sale which included real estate. *Id.*

Allegations of amended complaint by citizens, taxpayers and patrons of municipally operated electric utility to restrain the sale of utility to private company were insufficient to show such an abuse of discretion as would justify interference by the courts. *Id.*

Paragraph 11-76-1 of this chapter authorizing municipality to sell property no longer necessary or required for use of municipality authorized municipality, which operated electric utility by authority of initiating referendum, to sell entire operation, including property used in connection therewith, to power company. *Id.*

In view of facts that 48 sales by municipalities of utility systems to private companies took place between 1913 and 1941 when divisions 76 and 117 of this article were reenacted, that five sales were made between 1941 and 1955 when divisions 76 and 117 of this article were again reenacted and that five more were made between 1955 and 1961 when divisions 76 and 117 of this article were reenacted a third time without substantial change indicated legislative intent to

11-76-4.1. Sale of real estate

§ 11-76-4.1. The corporate authorities authorize the sale of surplus public real estate to be determined by a written MAI certified for public inspection. The resolution may dispose of the municipality or by listing with the case, the terms of the agent's compensation. Said resolution shall be published at the newspaper published in the municipality in the county wherein the municipality is pertinent information concerning the size and terms of sale. The corporate authorities determined by them to be in the best interests of the corporate authorities then holding office 80% of the appraised value.

Laws 1961, p. 576, § 11-76-4.1, added.

Section 2 of P.A. 83-1256 approved Aug. 13, 1984, provided: "This Act takes effect upon its becoming a law."

Division 76.1. Purchase or Lease

Par.

11-76.1-1. Powers of corporate authorities.

11-76.1-2. Levy and collection of taxes.

Division 76.1 was added

11-76.1-1. Powers of corporate authorities

§ 11-76.1-1. The corporate authorities of less than 500,000 inhabitants have affirmative vote of two-thirds of the office:

(i) To purchase or lease real or personal property or contracts or leases which provide for the purchase price to be paid in annual installments