

RESOLUTION NO. 697

BOROUGH OF MALVERN CHESTER COUNTY, PENNSYLVANIA

A Resolution authorizing the Borough Manager and Borough Solicitor to solicit bids for the sale of certain real property owned by, and located in, the Borough of Malvern.

BACKGROUND

The Borough owns a parcel (UPI #2-4-11.1), consisting of approximately 0.38 Acres (16,553 square feet) located on the northeast corner of the intersection of Old Lincoln Highway and Bridge Street (the "Property") in the R6 Zoning District.

The Borough purchased the Property from the Estate of John C. Herzak (a/k/a John Herzak) by Deed dated April 7, 2015 and recorded in the office of the Chester County Recorder of Deeds at Book 9086 and Page 422 on April 10, 2015. The Property is identified in the Deed as Premises "A."

The Property was purchased together with another parcel (UPI # 24-4-79.1) located on the Southeast corner of the intersection of Old Lincoln Highway and Bridge Street. The total compensation paid to Mr. Herzak's estate was Two Hundred and Ninety Thousand Dollars (\$290,000.00). There was no allocation of the compensation among the two parcels indicated in the Deed.

The Borough has previously received an appraisal of the Property which is to be held confidential pursuant to 65 P.S. § 67.708(b)(22)(i).

The Borough Code at Section 1201.1 (8 Pa.C.S.A. §1201.1) describes the manner in which a Borough may dispose of real property owned by the Borough via sealed bids.

Section 301.A.(7) of the Malvern Borough Home Rule Charter requires that the Borough Council only convey or authorize the conveyance of any land owned by the Borough via Ordinance.

Chapter 157 of the Malvern Borough Code of Ordinances provides for a specific procedure to be followed for the disposition or sale of real estate owned by the Borough of Malvern.

MATTERS RESOLVED

Borough Council hereby RESOLVES as follows:

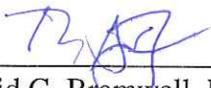
1. The Borough of Malvern shall seek to sell the Property pursuant to 8 Pa.C.S.A. §1201.1 via sealed bids.

2. The Borough Solicitor shall proceed as required by §157-2.C. of the Code of Ordinances of the Borough of Malvern to present the proposed plan described below to the Planning Commission at the Planning Commission's next regularly-scheduled meeting on December 17, 2015, whereupon the Planning Commission shall issue written recommendations to the Borough Manager.
3. The Borough Manager shall solicit bids to Purchase the Property subject to the terms and conditions as described herein subject to a maximum total expense of \$1,500 for all advertising and signage.
 - a. The Borough Manager is hereby authorized to procure and erect a "for sale" sign at the Property.
 - b. The Borough Manager is hereby authorized to solicit bids by publishing information about the Property via electronic means (including posting to the Borough's website) or in print, and advertising or posting the same in any newspaper or in any location as may be permitted by law or local ordinance.
 - c. The Borough Manager may, at the Borough Manager's discretion, take any other steps to market or solicit bids for the Property, which are of the type ordinarily taken by similarly situated municipalities, subject to the total expense limitation described above.
 - d. All Bids shall be in writing and in a form published by the Borough Manager in consultation with the Borough Solicitor.
4. Each Bid shall be conditioned upon the following terms:
 - a. Any Bid shall be unconditional and shall contain no contingency for financing, inspection, testing, due diligence, marketability or insurability of title, or otherwise.
 - b. The Borough of Malvern shall specially warrant title to the Property via a Deed to be prepared or approved by the Borough Solicitor.
 - c. Closing shall occur within 60 days of the enactment by Borough Council of an Ordinance authorizing the sale of the Property and accepting the selected Bid. Borough Council will endeavor to consider such an Ordinance at their March, 2016 regularly scheduled meeting.
 - d. Bidders shall be required to provide with their bid a certified check, bank check, or money order in the amount of 5% of their bid for the Property. The Borough shall deposit the check of the Selected Bidder either in an escrow account or in the Borough's general funds, at the discretion of the Borough Manager.
 - e. The Borough Manager, in consultation with the Borough Solicitor, shall be authorized to impose additional terms or conditions to bids as they may deem

ordinary, or reasonable and advisable.

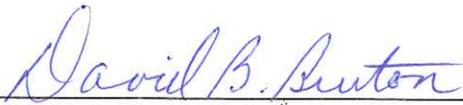
5. The Borough Manager, in consultation with the Borough Solicitor, shall be authorized to receive and respond to any request(s) for information or clarification requests submitted by potential bidders.
 - a. The Borough Manager is authorized, but shall not be required, to publish, or provide upon request, any records held by the Borough and related to the Property, including any prior environmental assessment, survey, or similar records. The Borough Manager, in consultation with the Borough Solicitor, may redact any record to the extent that it contains information which is not subject to disclosure pursuant to 65 P.S. § 67.708(b)(22)(i).
6. Bids shall be due on or before a time and date to be determined and published by the Borough Manager, but in no case later than 5:00 PM on the day before the regularly scheduled public meeting of Borough Council in the month of March, 2016.
7. The Bid opening shall take place at Borough Hall at a time and place to be determined by the Borough Manager and published with the solicitation for bids. In no case shall such opening occur after the scheduled start of the regularly scheduled public meeting of Borough Council for March, 2016.
8. Bids will be evaluated and awarded in accordance with 8 Pa.C.S.A. § 1201.1.

Passed by Borough Council, this 15th day of December, 2015.



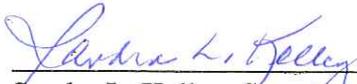
David G. Bramwell, President

Approved by the Mayor, this 15th day of December, 2015.



David B. Burton, Mayor

Enacted, this 15th day of December, 2015.



Sandra L. Kelley, Secretary

