Sponsor: Dan Nelson
First Reading: October 6, 2009
Second Reading: November 3, 2009

ORDINANCE NO. C-6-A

AN ORDINANCE REPEALING "ORDINANCE NO. C-6: AN ORDINANCE TO PROVIDE PROCEDURES FOR THE ORDERLY DISPOSITION OF SURPLUS REAL AND PERSONAL PROPERTY" AND ENACTING "AN ORDINANCE ESTABLISHING PROCEDURES FOR THE ORDERLY DISPOSITION OF SURPLUS REAL AND PERSONAL PROPERTY"

WHEREAS, in the opinion of the Town Council of the Town of Greenwood, the procedures for the selling and disposing of surplus property need to be updated to include additional methods of selling and disposing of surplus property;

WHEREAS, under Section 35(a) of the Town Charter of the Town of Greenwood "[a]ll powers conferred upon or vested in the Town Council of The Town of Greenwood by any act or law of the State of Delaware not in conflict with the provisions of [the] Charter are . . . expressly conferred upon and vested in The Town of Greenwood and/or the Town Council of The Town of Greenwood precisely as if each of said powers was expressly set forth in [the] Charter;"

BE IT HEREBY ENACTED by the Town Council of the Town of Greenwood, a majority thereof concurring in Council duly met, that the following ordinance be enacted:

Section 1. Ordinance No. C-6, "An Ordinance to Provide Procedures for the Orderly Disposition of Surplus Real and Personal Property," is hereby repealed.

Section 2. An Ordinance entitled, "AN ORDINANCE ESTABLISHING PROCEDURES FOR THE ORDERLY DISPOSITION OF SURPLUS REAL AND PERSONAL PROPERTY" is hereby adopted as follows:

AN ORDINANCE ESTABLISHING PROCEDURES FOR THE ORDERLY DISPOSITION OF SURPLUS REAL AND PERSONAL PROPERTY

Section 1. Definitions. As used in the ordinance, the following terms shall have the meanings specified:

(a) Town: the Town of Greenwood

(b) Significant Resale Value: a resale value of personal property that the Town estimates will exceed the advertising and selling costs.

(c) Surplus Property: any personal property with significant resale value or real property that is owned by the Town and determined by resolution by the Town Council of the Town to be no longer needed by the Town, or any department or division thereof, to carry out its responsibilities and duties under applicable federal, state or local law.

(d) Valueless Surplus Property: any personal property without significant resale value that is owned by the Town and determined by resolution by the Town Council of the Town to be no longer needed by the Town, or any department or division thereof, to carry out its responsibilities and duties under applicable federal, state or local law.

Section 2. Disposal of Valueless Surplus Property. The Town is authorized to dispose of valueless surplus property, and it may dispose of valueless surplus property in the same manner provided for the disposal of trash and garbage.

Section 3. General Procedures for Sale or Disposal of Surplus Property. The Town is authorized to sell or otherwise dispose of surplus property for the best interest of the Town.

(a) Notice of Sale. No less than 15 days prior to the sale or disposal of surplus property, the Town must do the following:

(1) Publish a notice of sale in a newspaper of general circulation in the Town; and

(2) Post a notice of sale in at least three public places in the Town.

(b) Exception to Notice of Sale in Newspaper. If the aggregate value of surplus property to be sold on a date of sale is anticipated to be less than

$500, the Town shall not be required to publish notice of sale in a newspaper for the surplus property to be sold on that date.

(c) Content of Notice of Sale. The notice of sale shall contain the following:

(1) The name, designation and address of the Town employee giving the notice;

(2) A description of the property;

(3) The date, time, place, and method of the sale or disposal;

(4) With sealed bids, the location where to submit the sealed bids, the deadline for submitting the sealed bids and the date, time, and place for the public opening of the sealed bids;

(5) Name of the person conducting the sale or disposal of the surplus property;

(6) A statement that the described real or personal property is deemed to be surplus property; and

(7) A statement that the Town reserves the right to reject any and all bids or offers to purchase the surplus property.

(d) Minimum Price Requirements. The Town may establish a minimum selling price for surplus property.

(e) Authority to Reject Bids or Offers. Except as otherwise noted in the ordinance, the Town may reject any and all bids or offers to purchase surplus property.

(f) Authority to Sell Surplus Property at a Low Price. If a minimum price requirement is not set by the Town, and the highest price offered in the sale of surplus property does not exceed the costs of advertising and selling the surplus property, the Town may only sell the surplus property if

it reasonably believes no significantly higher price can be obtained through a subsequent sale.

(g) Record of Property Sold. The Town employee conducting the sale of surplus property shall maintain a complete and accurate record of the sale, including the following:

(1) A description of the property sold;

(2) The name and the address of the purchaser;

(3) The sale price of the property sold; and

(4) The costs of the sale.

(h) Transfer of Title. The Town employee conducting the sale shall execute and deliver a deed or bill of sale to the purchaser of the property, which deed or bill of sale shall pass title of the property to the purchase and shall include the following:

(1) A description of the property sold that is similar to the description included in the notice of sale;

(2) The purchase price paid;

(3) The name and address of the purchaser; and

(4) The date of purchase.

Section 4. Authorized Methods to Dispose of Surplus Property. The Town may use any of the following methods to sell or otherwise dispose of surplus property.

(a) eBay. The Town may authorize a Town employee or a broker to list and sell surplus property on eBay. If a broker is used, the Town must have a signed agreement with the broker covering, at a minimum, the following issues:

(1) The commission the broker will receive;

(2) Which party shall be responsible for shipping the surplus property to the individual buyers;

(3) Which party shall maintain possession of the surplus property during the selling period; and

(4) Any security required of the broker for the broker to maintain possession of the surplus property.

(5) The duration of the agreement or the notice period required for the Town to terminate the agreement.

(6) The Town reserves the right to reject any and all bids except as otherwise limited by the eBay user agreement.

(b) Public Auction. The Town may sell surplus property at public auction, with or without a minimum reserve price, to the highest qualified bidder. The Town may either conduct its own public auction or have the surplus property sold at another public auction held in the State of Delaware. The Town reserves the right to reject any and all bids at public auction.

(c) Sealed Bids. The Town may sell surplus property by accepting sealed bids in accordance with the following procedures:

(1) The notice of sale shall identify where to submit the sealed bids and the deadline for submitting bids. Bids shall not be accepted after the submission deadline.

(2) The sealed bids shall be opened in public and the notice of sale shall identify the time and location of the opening of the bids.

(3) If two sealed bids offer an identical price, and their bid price is the highest price offered, each party shall submit another sealed bid, which at a minimum must exceed their original offer.

(4) The Town shall accept the highest sealed bid submitted in accordance with the provisions of this ordinance.

Section 5. Disposing of Unsold Surplus Property. If surplus property that is personal property remains unsold, and the Town reasonably believes that future attempts to sell the property will yield similar results, the property may be disposed of in the same manner as valueless surplus property. If surplus property that is real property remains unsold, the Town must annually continue to attempt to sell the real property until it sells.

Section 6. Disposition of Proceeds. All monies received from selling or otherwise disposing of surplus property, less the cost of advertising and selling, shall be immediately paid over to the Town Manager and deposited in the Town general fund.

Section 7. Sale of Deadly Weapons. The provisions contained herein for the sale of surplus property shall apply to firearms, weapons and other devices or instruments designed for inflicting bodily injury, as defined in 24 Del. C. § 901. However, all such sales shall only be made if authorized by, and conducted in accordance with, all applicable state and federal laws.

SYNOPSIS

This ordinance repeals the existing ordinance titled, An Ordinance to Provide Procedures for the Orderly Disposition of Surplus Real and Personal Property, and enacts a new ordinance as described here to replace the repealed ordinance. The Town is authorized to dispose of surplus personal property that has no significant resale value, and the Town may do so as it would dispose of trash or garbage. For surplus personal property with resale value and for surplus real property, the Town must post in three public place and publish in a newspaper a "notice of sale" no less than 15 days prior to the sale of the surplus property. The notice of sale must include the identifying information of the Town employee giving the notice, a description of the property, the date, time, place, and method of the sale or disposal, along with the person who will be conducting the sale or disposal. The notice of sale must also include a statement that the property is deemed to be surplus, and that the Town may reject any and all bids or offers. For property sold through sealed bids, the notice of sale must include the location where to submit the sealed bids, the submission deadline for the bids and the date, time and place for the public opening of the sealed bids.

The Town may establish a minimum selling price for the surplus property, and the Town may reject any and all bids. The Town may sell surplus property for a price below the cost of the sale if the Town reasonably believes a subsequent sale would not yield a higher price. The Town must maintain a complete and accurate record of all surplus property sales including a description of the property sold, the name and address of the purchasers, the sale price and the

cost of the sale. The Town shall execute a deed or bill of sale, which shall pass title to the purchaser and shall include a description of the property sold, the purchase price, the name and address of the purchaser, and the date of purchase.

The Town is authorized to use eBay directly to sell surplus property or to use a broker to do so. If a broker is used, the Town and broker must enter into a written agreement outlining the broker's commission, who is responsible for shipping the property, who will retain possessing during the selling period, whether the broker will be required to provide security to retain possession of the property, and the duration of the agreement or the notice period required for the Town to terminate the agreement. The Town may also sell surplus property through a local public auction or another public auction held within the state. Finally, the Town may sell surplus property by accepting sealed bids submitted prior to the deadline stated in the notice of sale. Bids shall be opened in a public place identified in the notice of sale. The Town shall accept the highest bid, and if two identical bids tie for being the highest bid, both bidders shall have another opportunity to submit another sealed bid in order to break the tie.

Surplus personal property that goes unsold may be disposed of in a manner similar to that of valueless surplus personal property. If surplus real property does not sell, however, the Town must annually attempt to sell the property until it sells.

All monies received from selling surplus property, less the advertising and selling costs, shall be immediately paid over to the Town Manager and deposited in the Town general fund.

Firearms and other deadly weapons may be sold under this ordinance as long as such sales are authorized by, and conducted in accordance with, all applicable state and federal laws.

This shall certify that this is a true and correct copy of the Ordinance duly adopted by a majority vote to the Greenwood Town Council at a duly-noticed meeting held on the 3rd day of November, 2009

Willard Russell
Mayor

ATTEST: Dawn Adkins (SEAL)