

Chad Plumb

From: "Rudy Warnock" <rwarnock2011@gmail.com>
Date: Monday, February 11, 2013 12:10 PM
To: "Plumb Chad" <chadplumb@warnockandassociates.com>
Subject: Fwd: county owned surplus personal property
 Agenda item.

Warnock & Associates, LLC

Rudy M. Warnock, Jr, PE.
 County Engineer

Begin forwarded message:

From: Mike Espy < >
Date: February 5, 2013, 3:21:28 PM CST
To: Rudy Warnock < >
Cc: Shelton Vance < >, Arthur Johnston
Subject: county owned surplus personal property

Rudy, how MC can dispose of surplus personal property is governed by s.19-7-5 and s.17-25-25 MCA. I have summarized the statutes:

19-7-5: BOS shall have the power to sell and dispose of any personal property belonging to it according to uniform personal property disposal requirement for local governments in Section 17-25-25;

17-25-25: 1. If property has ceased to be used for public purpose county may sell for cash or dispose, if in county's judgement, a sale would promote the best interest of the county;

2. Where property exceeds One Thousand Dollars in value, county may advertise for sealed bids 10 days before sale. Proceeds of sale placed in approved depository;

3. Where property does not exceed One Thousand Dollars in value, county may sell or dispose, by unanimous consent of board members, at a private sale. Proceeds placed in proper depository;

4. If county finds that fair market value of property is zero, and such finding is entered on Minutes, then county may dispose of property in manner it deems appropriate but no official or employee may derive any personal benefit from such disposal;

5. If the personal property may be of use or benefit to any federal agency, state agency or authority, or state agency of another state, it may be disposed of in accordance with s.31-7-13(m)(vi);

So, whether it is disposed of or sold at public or private sale depends on the value of the personal property after a finding by the BOS that the property is in surplus and no longer needed for public purposes.

The best AG Opinion on the topic is 1985 Benjamin Griffith. Goes into more detail for the above statutory authority.

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