media exploitation with great wisdom. The tone of the book is generally admiring but not adulatory.

The judicious reader is exposed to the vivid world of police officers, of different ages and sex, as they deal with the permutations of the fear of being wasted, marital pressures, racism and sexism, and strains on friendships. There is also a vast vocabulary of sexual, political, lavatorial, and philosophical references that separate them from management types. The language is lyrical, against a backdrop of violence, some overt, some repressed.

McClure's study of the San Diego Police Department's efforts to reform is slightly tainted, however. For all of his enthusiasm for the COP program, he cannot quite make up his mind that everything as he sees it is actually so. Reading between the lines, I suspect there is more suspicion that the grand strategy of the COP program was an effort to legitimize the SDPD's policies as a state-of-the-art revelation when, in fact, it is nothing more than an evolutionary change that has been occurring because of societal demands.

From its opening (with a squad car radio blaring, "We have a jumper . . . . "), to the officer who says, "I love police work . . . . It's good to walk an alley, shake doors; your heart is racing, pounding. . . . . I've walked the alley," the narration is thought provoking and catalytic. The cautious and inquisitive reader will gain much through McClure's reflective rhetoric.

—William Kirchhoff
City Manager
Arlington, Texas

LIGHTER SIDE

To Meet or Not To Meet?

Next time you plan to meet with your staff, stop a minute and ask yourself why you're holding a meeting. According to business consultant Roderick Wilkinson, there are only three valid reasons to schedule a meeting: to train people, to communicate information, and to make a decision. On the other hand, there are several bad reasons to hold a meeting: You know what should be done but don't want the responsibility; you don't know what to do and want somebody else to decide; you like to hear the sound of your own voice; you believe meetings are the democratic thing to do; you're trying to pull a fast one on a colleague.

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FIT 4 PUBLICATION

Selling Public Property—How To Do It Right

Bruce J. Bergman

MUNICIPALITIES ARE BEcoming increasingly vigorous in selling off excess real property—and for good reason. Parcels and buildings lying fallow generate no taxes and cannot contribute to business growth or residential development. Moreover, the sale of property generates an instant infusion of cash for the public coffers.

Something as vital as the sale of public lands and buildings must be approached with requisite care and foresight. It is not simply a matter of gathering properties and getting the best price for them. Consideration must be given to the objectives of the sale, how it is to be sold, for what price, under what financial terms, and with what conditions, if any, to be imposed.

Objective: Pure Sale vs. Planning

A large vacant tract in an area zoned for apartment buildings would undoubtedly bring a handsome price for multiple dwelling or condominium construction. But if the municipality's water and sanitary facilities are so strained that such construction would require building a new water treatment plant, the monetary gain of a big sale price would be illusory.

Any sale of municipal property should be approached with a view toward planning. Some counties are too large to use property sales as a planning device, while others have the staff but don't consider the point, emphasizing only the monetary considerations. Both price and planning should be considered where possible to maximize each benefit.

Method: Auction or Private Sale

Local law may control certain methods of sale. Properties taken back for taxes must be auctioned, while those previously used for municipal purposes can be sold privately. (Or the reverse may be true, and there are any number of permutations of this concept.) Sometimes the law provides that all municipal property must be auctioned and only if the upset price is not achieved may there be a negotiated sale.

When a negotiated or private sale is authorized, the officials may nevertheless elect to go to auction. The reason is that a private sale is much more vulnerable to public attack, whether real or imagined. Since claims of favoritism may cast a pall upon such sales, the entire process could benefit by the auction route.

Another alternative is to advertise for proposals, with notices in appropriate papers inviting offers from parties interested in purchasing and developing certain parcels.

Price and Strategy

Since local law may dictate a procedure to determine selling price, statute must be consulted. For example, there may be a provision that property taken for taxes must be sold for at least the amount of past due taxes.

But even if there are no statutory constraints, there are common sense approaches. Whether sale is to be by auction or negotiated contract, there should be some rationality behind setting an upset price. Using the tax parcel as an example, if the municipality took title for failure to pay $25,000 in taxes, that is a good starting point.

Suppose, however, that this an apparently choice parcel that an appraisal reveals is worth $75,000. Should the guideline be just the past due $25,000, or is the $75,000 more realistic? Starting bids at the lower figure (or negotiating at that amount) should ensure a quick sale. That is perhaps an advantage, but one that may not yield the highest monetary return.

Yet, that still may be appropriate if it is the only way to induce purchase by a favorable developer. Assume by way of example that company X can put up two three-family homes in a certain area on that vacant parcel. The municipality very much wants that done. Company X will do so only if it must pay no more than $25,000. No one else even hints that they would erect the desired buildings. Under those circumstances, the seemingly deficient $25,000 price may on balance be the best deal.

Still further, starting at $75,000 means the purchaser is probably paying retail. Since buyers from municipalities usually expect a bargain, this posture may discourage any sale.

Of course, consideration of the views of the citizenry must be evaluated. Selling land "worth" $75,000 for only $25,000 may appear to be ill-motivated. The best intentions in the world may not be worth the loss of confidence in government that could be engendered.

On the other hand, that $75,000 may yet make more sense if the parcel is unique or if a particular developer has a special project designed for that one price.

Similarly, a vacant parcel providing a water view to a substantial abutting home may well be worth retail price—or more—to the homeowner who will pay anything to avoid construction tending to diminish the value or enjoyment of his property.

So, price really depends upon a myriad of factors varying too diversely to set a rule. At the very least, appraisals should be obtained so an area of price latitude can be determined. Then, all the cited factors can be weighed to arrive at the best course of action.

Municipal Financing

There are three basic ways to finance the sale:

Private Mortgage

As it is when one buys a house, a purchaser of municipal property could approach a bank or some other lender to get a mortgage. Except for major developments, the problem is that the purchaser doesn't want to bind himself to buy unless he knows for sure he has the mortgage. You don't want to grant the time it takes him to get the mortgage, since you don't know if there is a sale until the commitment is firm. This is therefore not the most common method to finance the sale.

Installment Sale Contract

Called in some localities the "deed in trust" or "trust deed," this is probably the usual way to finance when all cash is not demanded.

The purchaser makes periodic payments for a set number of years. At the conclusion of that time, the deed is delivered. Until all payments are made, the seller is the record owner of the property, with the purchaser having what is known as "equitable title."

If a default occurs, the city or county retains the payments to date. Taxes are usually to be paid, even though the purchaser does not have record title. There is great safety to the seller and pressure on the purchaser to complete the sale.

The difficulty is that it imposes impediments to future financing by the purchaser and is unsatisfactory in many respects because that purchaser is not the owner of record.

Municipal Mortgage

In order for the city or county to take back a mortgage—thus becoming the "bank"—it must have legal authority to do so, which is not always the case. Even where such authority is found, some municipalities believe they lack the staff or expertise to be in the banking business.

Still further, other municipalities fear that, in the event of a default, they would be mired in foreclosure litigation. Although beyond the scope of this article, municipal mortgages can be a most effective financing device. If the property is worth reasonably more than the mortgage, the chance of failing to recoup the financed amount in the foreclosure is quite slim. Under proper circumstances, legal fees and costs are recoverable to the foreclosing party. When the mortgaged building is in physical jeopardy during the course of a protracted foreclosure, a receiver may be appointed to collect the rents and profits for the benefit of the lender.

Sale Conditions

How does the seller ensure that the purchaser will comply with the terms of sale? One way is to put a restrictive covenant in the deed. To the extent these are valid and binding in your area—and the municipal legal officer must be consulted—a later breach of the covenant would allow the city or county to sue the owner to demolish an offending structure.

Another possible solution is to put a right of reverter clause in the deed, which says that a violation of the covenant will cause title to revert back to the city or county. Although not often used, and perhaps more difficult to enforce, such a clause is a possibility.

These safeguards, among others, are also applicable to negotiated sales where the contract of sale will itself recite the various covenants to be inserted in the deed. Here, too, there is room for additional protection. Consider these possibilities for the contract.

Nonassignability

Negotiation with a reputable builder who plans to erect luxury condominiums sounds like a good idea because you have faith in his experience and ability to do the job. But he may decide to turn over a quick profit and sell the land to someone else—a person in whom you have either no knowledge or little faith. All the restrictive covenants in the world give you only a right to sue. So, prohibiting assignment of the contract gives a better chance of completion by the party you prefer.

Time Limitations

Particularly for major projects, the purchaser will insist that the closing of title be conditioned upon his obtaining financing. The time given to the developer is critical. It must be sufficient to allow him to get the commitment (perhaps 30 to 90 or 120 days). But a more extended time means essentially that you sold an option and just gave someone a chance to "peddle a deal." Moreover, your property sits useless and off the tax rolls during that period. Careful attention to this detail is required.

Taxes Until Closing

Sometimes financing may be so complex that you must give more time than you would otherwise prefer. Then, too, the prospective use may require approval of your zoning board or planning commission, which can be quite time-consuming. In addition, these steps might piggyback, so that zoning approval would have to be completed before an application for financing could be filed—or vice versa. It might not be unusual, therefore, to find the time between contract and closing stretching to a year or two.

During all this time the land remains unused and generates no taxes. Hence, it is a good idea to consider requesting some payment in lieu of taxes to begin after some reasonable time has expired.

Time to Build

For any number of reasons too detailed to review here, a builder may wish to delay construction even after having received financing commitments and zoning approval. While title may have passed, your goal was to have something built—not just to have received the money. Therefore, consideration should be given to requiring construction to commence a certain number of days or months after various contingencies have been fulfilled, and to be completed within a set period of time. This helps ensure completion when you want it.

Interest on Down Payment

In many nongovernmental real estate transactions, the usual 10 percent contract deposit (often called "earnest money") either is deposited in a non-interest-bearing account or earns interest for the purchaser's account. Especially when the municipality is giving the purchaser broad time limits to fulfill contingencies, it may be wise to protect the taxpayers by having the down payment earn nonrefundable interest to the city or county if the transaction falls through. If the interest is not to your credit, you have given away what was in essence a free option.

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