



CO00001041

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

ORDINANCE NO. 04-014

RELATING TO ACQUISITION, MANAGEMENT AND DISPOSITION OF PROPERTY HELD BY SNOHOMISH COUNTY AS THE RESULT OF CIVIL FORFEITURE ACTIONS; ACCOUNTING FOR PROCEEDS OF CIVIL FORFEITURE; AND AMENDING CHAPTERS 4.46, 10.44, AND 10.46 SCC.

WHEREAS, various state laws authorize Snohomish County as an aspect of its law enforcement function to initiate and prosecute civil forfeiture actions against real and personal property linked to criminal activity; and

WHEREAS, SCC 10.46.020 delegates to the Snohomish County Prosecuting Attorney the authority under state law to bring, join, compromise and settle civil forfeiture actions against real and personal property on behalf of Snohomish County and, when authorized by interlocal agreement, on behalf of other jurisdictions; and

WHEREAS, SCC 10.46.030 delegates to the Snohomish County Sheriff the authority under state law to initiate civil forfeiture actions against personal property on behalf of Snohomish County and, when authorized by interlocal agreement, on behalf of other jurisdictions; and

WHEREAS, Snohomish County is a participating jurisdiction of the Snohomish Regional Drug Task Force (the "Task Force"), a multi-jurisdictional association of cities and the county organized by interlocal agreement to coordinate drug law enforcement activities throughout Snohomish County, including asset forfeiture and disposition; and

WHEREAS, under the terms of the most recent Task Force interlocal agreement effective from July 1, 2003 through June 30, 2004 and recorded at Auditor File No. 200308221303 ("interlocal agreement"), Snohomish County is authorized to initiate and prosecute civil forfeiture actions and to hold the title to the resulting forfeited property on behalf of itself and the other participating jurisdictions; and

WHEREAS, the interlocal agreement further provides that, for the purposes of administering the assets and resources available to the Task Force, which includes management and disposition of forfeited property on behalf of participating jurisdictions, Snohomish County may execute all contracts and agreements recommended for approval by the Task Force Executive Board, which involves Snohomish County applying its own procedures relating to the management and disposition of property; and

WHEREAS, current County processes for disposing of real and personal property are designed for property obtained for County purposes or through tax foreclosure proceedings and are not well suited to the legal and practical considerations unique to property forfeited to the County due to its link to criminal activity; and

WHEREAS, the purpose of this ordinance is to update and streamline the procedures relating to the acquisition, management and disposition of property obtained through civil forfeiture proceedings, as well as the accounting of related proceeds, in a manner consistent with state law and national standards;

NOW, THEREFORE, BE IT ORDAINED:

Section 1. Snohomish County Code Section 4.46.010, last amended by Ordinance No. 93-137 on December 22, 1993, is amended to read:

4.46.010 Definitions.

The following definitions shall apply throughout this chapter.

- (1) Council. The council is the governing authority of Snohomish county, within the scope of the definition in the Snohomish county charter.
- (2) Executive. The executive is defined for the purpose of this chapter within the Snohomish county charter.
- (3) Property Management Division. The property management division is established pursuant to provisions of this chapter for the management and disposition of real and personal property owned or otherwise held by Snohomish county.
- (4) Property Administrator. The property administrator is that county officer appointed by the executive or his or her designee; who is charged with the responsibility of administering the provisions of this chapter and supervising property management.
- (5) Fair Market Rental Value. Fair market rental value is an amount in the competitive market that a well-informed and willing lessor who desires but is not required to lease, would accept, and which a well-informed and willing lessee who desires but is not required to lease, would pay for the temporary use of the premises, after due consideration of all the elements reasonably affecting value.
- (6) Depreciated Value. Depreciated value is the purchase cost of property less depreciation.
- (7) Estimated Market Value. Estimated market value is the probable sale value of property as between a willing seller, who desires but is not required to sell and a willing purchaser, who desires but is not required to buy, assuming both are knowledgeable as to all uses to which the property can be put.
- (8) Lot. A lot is a number of properties of a like kind, serving a similar purpose.
- (9) Emergency. An emergency is an occurrence whereby county property would suffer material injury, loss or damage by delay of action.
- (10) Expendable Property. Expendable property is that property which, when committed to the purpose intended, has its usefulness consumed and thereafter has no further value.
- (11) Worthless Property. Worthless property is that property which when processed in the manner most advantageous to the county cannot reasonably be sold for an amount sufficient to recoup the cost of sale or of disposal.

(12) Historical Cost. The actual price paid plus tax, commission, installation cost, betterments, assessments, and any other costs related to acquiring the property or preparing the asset for use.

(13) Fallen Timber. Trees that have been downed by county personnel or by natural causes.

(14) Personal Use. To be used only by the person obtaining a permit and not for re-sale.

(15) "Civil forfeiture property" means property acquired or held by the county as the result of a civil forfeiture action authorized by Chapter 10.46 SCC, unless and until the property is retained for official use.

Section 2. A new section is added to Chapter 4.46 of the Snohomish County Code to read:

4.46.700 Management and disposition of civil forfeiture property.

The property management division shall manage and dispose of civil forfeiture property in the manner authorized by chapter 10.46 SCC. Once civil forfeiture property is retained for official use by the County, the property management division shall manage and dispose of the retained property as provided by chapter 4.46 SCC

Section 3. Snohomish County Code Section 10.44.030, adopted by Ordinance No. 80-051 on August 25, 1980, is amended to read:

10.44.030 Sources of moneys for fund.

The fund established by this chapter shall consist of the following:

(1) All fines, forfeitures and penalties ordered paid by court order into this fund; and

(2) The proceeds from sales and other transactions authorized by RCW ~~((69.50.505(f)))~~ 69.50.505(g) and SCC 10.46.050, less the amount of proceeds deductible therefrom by authority of chapter 63.40 RCW.

Section 4. Snohomish County Code Section 10.46.010, adopted by Ordinance No. 00-005 on March 22, 2002, is amended to read:

10.46.010 Definitions.

In this chapter, unless the context clearly requires otherwise,

(1) "((civil))Civil forfeiture action" means a judicial or non-judicial proceeding authorized by chapter 69.50, 9A.41, 9A.82, 9A.83, or 10.105 of the Revised Code of Washington as now or hereafter amended((:));

(2) "Civil forfeiture property" means property acquired or held by the county as the result of a civil forfeiture action unless and until the property is retained for official use;

(3) "Task force commander" has the meaning given in SCC 3.67.010.

Section 5. Snohomish County Code Section 10.46.020, adopted by Ordinance No. 00-005 on March 22, 2000, is amended to read:

10.46.020 Authority of prosecuting attorney.

(1) The prosecuting attorney shall have the authority and discretion to bring, join, compromise or settle civil forfeiture actions on behalf of the county, or on behalf of the county and other jurisdictions where authorized by interlocal agreement, without the need for further approval from the county executive or council. The prosecuting attorney shall obtain approval from the Sheriff before compromising or settling any civil forfeiture action in which the forfeitable property interest at issue has a fair market value in excess of \$50,000.

(2) Upon bringing or joining a civil forfeiture action against real property, the prosecuting attorney shall provide the property management division with all information in his or her possession or control relating to the condition of the property. Within a reasonable time after receiving the information, the property management division shall provide the prosecuting attorney with a written report stating the results of an environmental or other risk assessment or that no risk assessment will be performed. The prosecuting attorney shall consider the report before obtaining an interest in the real property for the county.

(3) The prosecuting attorney shall provide a report of actions taken by the prosecuting attorney under this section to the county executive and county council on a quarterly basis.

Section 6. A new section is added to Chapter 10.46 of the Snohomish County Code to read:

10.46.040 Civil forfeiture property—Duties.

(1) The sheriff shall notify the property management division in writing when the county acquires civil forfeiture property and when the county retains civil forfeiture property for official use. The property management division shall inventory civil forfeiture property and property retained for official use to the extent required by SCC 4.46.115 through 4.46.125 and SCC 4.46.170, and shall manage and dispose of property retained for official use under chapter 4.46. The sheriff shall be the custodial department for civil forfeiture property and property retained for official use.

(2) Upon the written recommendation of the sheriff or task force commander, the property management division may declare real or personal civil forfeiture property surplus to the needs of the county and may sell, lease, or otherwise dispose of such property as provided in this chapter.

(3) The property management division may approve and sign all contracts with real estate agents, appraisers, escrow agents, environmental risk analysts and other professionals for professional services relating to the management and disposition of civil forfeiture property and all contracts related to assessing environmental contamination and other risk factors relevant to the decision to acquire civil forfeiture property. In selecting professional service contractors, the property management division shall consider the

recommendations of the sheriff and the task force commander and shall follow any applicable county selection processes.

(4) The property management division shall advertise the sale, lease, or other disposition of surplus civil forfeiture property under SCC 10.46.050 by publishing notice in a legal newspaper of general circulation at least once a week for two consecutive weeks before an offer is accepted by the county. In the case of real property, the advertisement shall describe the property by both its legal description and street address or, if there is no street address, by a vicinity description.

(5) The property management division is granted signature authority to execute all contracts, deeds, leases, licenses and other documents relating to the management and disposition of civil forfeiture property under chapter 10.46 SCC.

Section 7. A new section is added to Chapter 10.46 of the Snohomish County Code to read:

10.46.050 Civil forfeiture property—Disposition of surplus property.

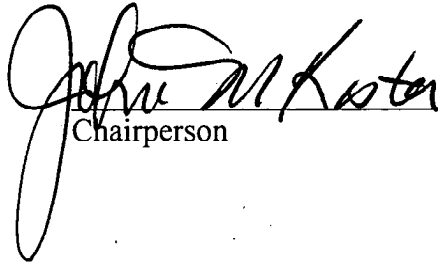
- (1) The county may dispose of surplus civil forfeiture property by:
- (a) Selling real property by private negotiation based upon the written recommendation of the sheriff, approval of the property management division, and under terms that include:
 - (i) Consideration that is no less than the appraised fair market value of the property as established by a qualified appraiser working in accordance with the standards of the profession;
 - (ii) Cash due at closing; and
 - (iii) Title transfer by quitclaim deed.
 - (b) Leasing real property by private negotiation, based upon the written recommendation of the sheriff, approval of the property management division, and under terms that include:
 - (i) Consideration that is no less than the appraised fair market rental value of the property as established by a qualified appraiser working in accordance with the standards of the profession;
 - (ii) The prevailing wage provisions set out in SCC 4.46.335;
 - (iii) A lease term of no more than two years;
 - (iv) The limitations on improvements, assignment, and subleasing set out in SCC 4.46.370(2) and SCC 4.46.370(3); and
 - (v) Provision for the collection and payment of applicable leasehold excise taxes.
 - (c) Selling personal property valued in excess of \$5,000 by private negotiation based upon the written recommendation of the sheriff and approval of the property management division.
 - (d) Selling personal property valued at equal to or less than \$5,000 by private negotiation with approval of the property management division.

(c) Destroying or otherwise disposing of personal property valued at equal to or less than \$5,000 based upon the written recommendation of the sheriff or task force commander and with the approval of the property management division.

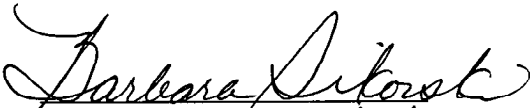
(2) No interest in civil forfeiture property leased, sold, or otherwise disposed of under this section may be sold, leased or otherwise transferred, directly or indirectly, to an employee of the county or, if the property is held by the county on behalf of itself and other jurisdictions under the terms of an interlocal agreement, an employee of a jurisdiction participating in the interlocal agreement. In addition to its ordinary meaning, the term "employee" for purposes of this section includes former employees involved in the criminal investigation that led to forfeiture of the civil forfeiture property at issue and any person involved in an action authorized under this chapter with respect to that property.

PASSED this 18th day of February, 2004.

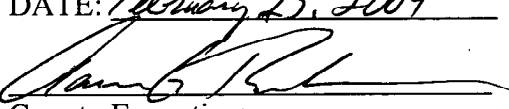
SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington


Chairperson

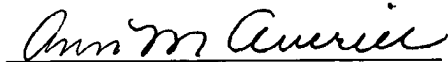
ATTEST:


Clerk of the Council, *Asst.*

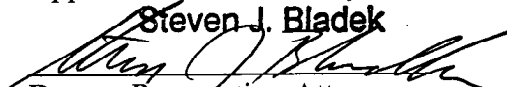
- APPROVED
- EMERGENCY
- VETOED

DATE: February 23, 2004

County Executive

ATTEST:



Approved as to form only:


Deputy Prosecuting Attorney