

**COUNTIES, CITIES AND TOWNS: BUILDINGS, MONUMENTS AND LANDS
GENERALLY - PURCHASE, SALE, ETC., OF REAL PROPERTY.**

No requirement for governing body to approve or disapprove proposed sale of property at public hearing. If board of supervisors elects not to proceed with proposed sale presented at public hearing, board should hold additional public hearing before proceeding with sale that differs materially from original proposal. Whether additional public hearing should be held for sale that is essentially same as that proposed at first hearing is determination to be made by governing body. If time lapse since original public hearing was held is significant, additional hearing may be required. No prohibition against holding another public hearing, even should board determine such hearing is not mandated.

The Honorable Charles R. Hawkins

Member, Senate of Virginia

June 1, 1998

You ask whether, when a board of supervisors holds a public hearing after adopting a motion to sell a school building and later rescinds the motion, it must hold an additional public hearing if it again votes to sell the building.

Section 15.2-1800(B) of the *Code of Virginia*, which authorizes a locality to sell, exchange, lease or otherwise dispose of its real property, provides that no real property "shall be disposed of until the governing body has held a public hearing concerning such disposal." While a public hearing must be held "concerning such disposal" before the locality disposes of the property, § 15.2-1800 does not require that the governing body approve or disapprove the proposed sale at the time of the public hearing.¹ If, however, the board elects not to proceed with the proposed sale presented at the public hearing, it is my opinion that the board should hold another public hearing before proceeding with a sale that differs in any material respect from the original proposal.²

Whether an additional public hearing should be held if the sale is essentially the same as proposed at the first hearing is a matter for determination by the governing body, considering such factors as the period of time that has elapsed since the original hearing, any change in circumstances within the locality that might alter the public's response to the proposed sale, and any other relevant factors within the board's knowledge. If a significant period of time has elapsed since the original public hearing, it is my view that the statute would require an additional hearing in most instances.³ There is, of course, no prohibition against the holding of another hearing, even if the board determines that it is not mandated.

¹ See 1996 Op. Va. Att'y Gen. 59, 60 (no requirement that board of supervisors adopt zoning ordinance at public hearing).

²See 1968-1969 Op. Va. Att'y Gen. 183, 183 (statute authorizes governing body to make changes in zoning ordinance after public hearing without holding additional hearing if change does not constitute zoning additional land to different classification).

³See 1996 Op. Va. Att'y Gen. 62, 63 (six-month time lapse is excessive to support argument that second hearing constitutes continuance of first hearing). You indicate that, in one instance, six years has elapsed since the public hearing at which the sale was proposed.