

LEE COUNTY ORDINANCE NO. 13-09

**AN ORDINANCE OF LEE COUNTY, FLORIDA,
AMENDING LEE COUNTY ORDINANCE NO. 05-17
(CONSERVATION LAND ACQUISITION AND
STEWARDSHIP ADVISORY COMMITTEE);
IMPLEMENTING RECOMMENDATIONS BY THE
CONSERVATION 2020 BLUE RIBBON COMMITTEE
ADOPTED BY THE LEE COUNTY BOARD OF COUNTY
COMMISSIONERS ON NOVEMBER 6, 2012; AMENDING
PROGRAM CRITERIA AND RULES OF PROCEDURE.**

WHEREAS, the Board of County Commissioners of Lee County, Florida ("Board") is the governing body in and for Lee County, Florida, and,

WHEREAS, the Board is authorized pursuant to Chapter 125, Florida Statutes, to enact Ordinances necessary in the exercise of its powers; and,

WHEREAS, the Board finds that the public health, safety and welfare is served, promoted and enhanced by the acquisition and management of environmentally critical or sensitive lands for the protection of natural flood plains, marshes or estuaries; for surface water management and water supply, for the restoration of altered ecosystems; and to provide wildlife management areas and recreation opportunities; and the conservation of said natural resources; and,

WHEREAS, applicable Florida Statutes reflect that such land acquisition and improvement serves a public purpose; and,

WHEREAS, in 1996, the Board of County Commissioners created the Conservation Land Acquisition And Stewardship Advisory Committee in order to advise the County and public in the implementation of the Conservation 20/20 program and in proceeding with projects constituting a part of the limited general obligation bond acquisition and improvement program; and,

WHEREAS, on July 31, 1996, the Board of County Commissioners adopted Lee County Ordinance No. 96-12 to implement the Lee County Conservation Land Acquisition and Stewardship Program ("Program") through the creation of the "Land Committee"; and,

WHEREAS, Ordinance No. 96-12 was subsequently amended and repealed by Ordinance Number 05-17; and,

WHEREAS, it is further in the public's interest to have any resulting acquisition and improvement program procedurally implemented in a manner that sets specific guidelines for the program and provides the County with recommendations to ensure effective and successful completion of the program; and,

WHEREAS, on June 19, 2012, pursuant to Administrative Code 2-3 (AC 2-3) the Board created a Special Advisory Group known as the Conservation 2020 Blue Ribbon Committee; and,

WHEREAS, the purpose of the Blue Ribbon Committee was to review the Conservation 2020 Program and to recommend changes to enhance the effectiveness of the program, to increase the efficiency of the purchasing process, land stewardship management activities, and the future funding of the Conservation 2020 Program; and,

WHEREAS, the Blue Ribbon Committee prepared a list of findings and recommendations for the Board's consideration; and,

WHEREAS, the Blue Ribbon Committee prepared numerous findings and recommendations on potential modifications to the Conservation 2020 procedures; and,

WHEREAS, on November 6, 2012, the Board heard and considered the findings and recommendations of the committee during a public meeting; and,

WHEREAS, pursuant to Lee County Resolution 12-11-22, the Board adopted the findings and recommendations of the Blue Ribbon Committee and directed Staff to amend the Lee County Conservation Lands Implementation Ordinance (No. 05-17) where appropriate to implement the recommendations of the Committee.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA that:

SECTION ONE: AMENDMENT TO ORDINANCE 05-17

Ordinance Number 05-17 is hereby amended as follows with strike through identifying deleted text and underline identifying new text.

SECTION THREE: OBJECTIVES AND DUTIES:

The "Land Committee" will advise and provide recommendations to the Board concerning the County's environmentally critical or sensitive land purchase and improvement program, "The Land Program". Upon formation of the Land Committee, the Board, with input from the Committee, shall establish reasonable rules, guidelines and milestones in order for the Committee to meet its objectives and duties as provided herein.

The Land Committee will perform the following functions:

- A. Review and provide recommendations concerning the County's levy of millage and use of ad valorem funds in order to finance and implement the Land Program.
- B. Establish the parameters of The Land Program to include, but not limited to, criteria for land purchases, procedures to implement the Program, and process for ranking purchase projects. The Land Program parameters will be confirmed by the Board by subsequent Resolution.
- C. Develop for Board approval, an Annual Property Acquisition Map depicting properties that are either nominated for acquisition and

are actively being pursued for purchase, or have been purchased by the County under the Land Program.

- D. Set aside no less than ten percent (10%) of the Program revenues for a trust fund to enable restoration, perpetual management and public access for the acquired properties. Procedures for expenditures from the trust fund will be recommended to, and approved by, the Board of County Commissioners.
- E. Review established Land Program criteria and guidelines and provide recommendations for amendments and/or modifications to The Land Program that serve to enhance the effective operation of same.
- F. Provide periodic input and updates on the implementation and operation of The Land Program, to include but not limited to land purchase status, expenditures and availability of funds.
- G. Disseminate to and coordinate with Lee County local governments, potentially affected property owners and the general public by public hearing or otherwise, information concerning the program guidelines and the rationale for parcel selection.
- H. Coordinate with and assist as necessary Lee County staff in acquiring and managing the Program lands.
- I. Offer amendments and/or modifications to this Ordinance as necessary to effectively and successfully implement the Program.
- J. Once the purchase price and terms of purchase of land under the Land Program is complete and ready for Board approval, the Committee may review and provide a recommendation to the Board concerning the negotiated purchase price and terms of purchase. The Committee may recommend purchase as proposed or may recommend not moving forward with the negotiated price. For those purchases where the Committee recommends not moving forward, the Committee must provide the basis for its recommendation. The Board has the discretion to accept or reject the Committee's recommendation. In making its recommendation, the Committee may consider the following:
 - a) Appraisals prepared for the property.
 - b) Analysis of the valuation method used and the comparable sales data, adjustments, and assumptions made to support the valuation.
 - c) Effect of encumbrances on the valuation of the property.
 - d) Development Regulations and existing entitlements applicable to the property and potential for development of the property under current development regulations and entitlements.

- e) Expenses associated with the maintenance of the property.
- f) Any further matters deemed necessary by the Committee for an analysis of the negotiated purchase price.

As a part of the presentation of the parcel to the Board for purchase, County Staff will provide the Board a written report of the Committee's recommendation. The report must include a summation of the majority's recommendation, including justifications if given, and a summation of the minority's recommendation, including justifications if given.

SECTION FOUR: **PROGRAM CRITERIA:**

Notwithstanding the duties and objectives as specified in Section Three, supra, the Land Program shall be subject to the following general criteria:

A. All land acquisitions and land improvement functions must be consistent with the legal and financial parameters of any County levy of millage and use of ad valorem tax proceeds providing funds for The Land Program.

B. All land purchases shall conform to those laws applicable to the County purchase of real property or any interest therein.

C. All lands shall be purchased in a legal interest sufficient to meet the objectives for the uses of the acquired lands herein, this may include, where appropriate, the use of Conservation Easements as another possible means to acquire environmentally sensitive lands. Notwithstanding, property owners may donate and the County may accept donations of environmentally sensitive lands into the Conservation 20/20 Program, so long as the donated property meets the Conservation 20/20 Program criteria and the Board of County Commissioners formally accepts the donation.

D. Priorities for land purchase must be reviewed and amended, if necessary, at least on an annual basis.

E. The Land Acquisition Program will be on a "willing seller" basis. No eminent domain will be used to acquire lands for the Program.

F. All lands considered for purchase with an asking price of \$499,999 or less will be appraised by at least one or more state certified appraiser. All lands considered for purchase with an asking price of \$500,000 or more will be appraised by no less than two state certified appraisers. If there is a difference of 20% or more between the valuations provided within the two appraisals, the property must be appraised by a third state certified appraiser.

G. In general, the lands considered for purchase should have critical or sensitive conservation value, be large enough in size to be effectively managed or be a unique/rare habitat type, contribute positively to surface water management, water supply, flood control, wildlife habitat or appropriate passive public recreation.

H. Land purchases will be consistent with those lands as identified in the Lee County Comprehensive Plan as being appropriate for conservation and protection of natural resources efforts and public recreation.

I. Lands to be acquired under The Land Program will be subject to the County's receipt of off-site mitigation credits from appropriate agencies or agency, as the case may be.

a) For purposes of this Section I., the term "Mitigation" means, includes and applies to, wetlands, wildlife and vegetative habitats, water quality and any other forms of mitigation as defined and described by Federal and State permitting agencies when reviewing permit applications for projects which require compensatory mitigation as defined, for project environmental impacts.

b) For purposes of this Section I., any lands acquired under the Lands Program providing compensatory mitigation credits for project environmental impacts, such credits may be used for County projects and other public projects as advanced by the State of Florida, municipalities within Lee County and the School District of Lee County, subject to review and recommendation to the Board of County Commissioners by the Land Committee on a case-by-case basis.

c) For purposes of this Section I., it is the intent of this Ordinance that the requirement for the eligibility of mitigation credits from permitting agencies for lands acquired under the Program be liberally construed, so as not to preclude the acquisition of a desired, selected property that may or may not provide future mitigation credits.

J. Any lands identified as a priority for purchase can be removed from said listing or acquisition may upon the request of any affected land owner.

K. Appraisers used for valuation of lands to be acquired under The Land Program must be State qualified in the property type appraised. The County will select Qualified Appraisers through the formal Procurement process on an annual basis.

SECTION SEVEN: RULES OF PROCEDURE:

A. The Land Committee and its members shall comply with all applicable requirements of the Florida Sunshine Law, Public Records Law, Financial Disclosure Requirements (Chapter 112, Fla. Stat.), if required, and the Lee County Lobbying Ordinance.

B. The Land Committee may adopt additional procedures of operations provided there is no conflict with State Law.

C. Roberts Rules of Order shall dictate parliamentary procedure. The Committee will elect its own officers for a one (1) year term.

D. All members will serve without compensation.

E. The Committee shall adopt a meeting schedule consistent with the effective implementation and operation of the Program and the objectives set forth in this Ordinance. Regardless, in no event will the Committee meet less than quarterly unless such revised schedule is first approved by the Board. The Committee adopted meeting schedule or revisions thereto shall be forwarded to the Board of County Commissioners.

F. Chapter 112, Part 3 (Code of Ethics) of the Florida Statute, applies to all Committee members. In addition to the prohibitions and limitations provided under Chapter 112, F.S., the following prohibitions will apply:

1. Committee members and their relatives may not represent a property owner that has submitted his or her property for review and approval by the Committee.
2. Committee members and their relatives may not directly or indirectly sell property owned by the Committee member or his or her relatives (directly or indirectly through a separate legal entity) to the County.
3. Committee members and their relatives (directly or indirectly through a separate legal entity) may not receive compensation resulting from the sale of realty to the County. This includes, without limitation, real estate commissions, listing fees, brokerage fees, or other consideration paid by an individual, real estate firm, company, or agency.
4. Subsection F is not meant to restrict the sale of property by a real estate firm, company, or agency in which the Committee member's relative is only an employee of that firm, company, or agency and the real estate commissions or compensation received from the sale is not shared with, or provided to, the Committee member or his or her relative.
5. For purposes of this subsection, the term "relative" includes, an individual who is related to a Committee member as father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, person who is engaged to be married to the Committee member or who otherwise holds himself or herself out as or is generally known as the person whom the Committee member intends to marry or with whom the Committee member intends to form a household, or any other natural person having the same legal residence as the public officer or employee.
6. Failure of a Committee member to meet these requirements will result in immediate dismissal from the Committee.
7. The Board of County Commissioners may waive these requirements on a case by case basis in accordance with the provisions of § 112.313(12), F.S., and applicable Lee County Administrative Code provisions after full disclosure of the proposed transaction or relationship.

SECTION TWO: CONFLICT

Whenever the requirements or provisions of this Ordinance are in conflict with the provisions of any other lawfully adopted Lee County Ordinance or Florida Statute, the more restrictive requirements will apply.

SECTION THREE: SEVERABILITY

The provisions of this Ordinance are severable and it is the intention to confer upon the whole or any part, the powers herein provided for. If any provision, paragraph, word, section or article of this Ordinance is invalidated by a court of competent jurisdiction, the remaining provisions, paragraphs, words, sections and ordinances shall not be affected and shall continue in full force and effect.

SECTION FOUR: CODIFICATION, INCLUSION IN CODE, AND SCRIVENER'S ERRORS

It is the intention of the Board of County Commissioners that the provisions of this Ordinance will become and be made a part of the Lee County Code; and that sections of this Ordinance may be renumbered or re-lettered and that the word "Ordinance" may be changed to "Section" "Article" or such other appropriate word or phrase in order to accomplish such intention; and regardless of whether such inclusion in the Code is accomplished, sections of this Ordinance may be renumbered or re-lettered and typographical errors which do not affect the intent may be authorized by the County Manager, or the County Manager's designee, without need of public hearing, by filing a corrected or re-codified copy of same with the Clerk of Circuit Court.

SECTION FIVE: EFFECTIVE DATE

This Ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State.

The foregoing Ordinance was offered by Commissioner Hall, who moved its adoption. The motion was seconded by Commissioner Manning and, being put to a vote, the vote was as follows:

JOHN MANNING	Aye
CECIL L PENDERGRASS	Aye
LARRY KIKER	Aye
TAMMARA HALL	Aye
FRANK MANN	Aye

DULY PASSED AND ADOPTED this 28th day of May, 2013.

ATTEST: LINDA DOGGETT
CLERK OF COURTS

By: Marcia Wilson
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: [Signature]
Cecil L Pendergrass, Chairman



APPROVED AS TO FORM:

By: [Signature]
Office of the County Attorney



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

June 3, 2013

Honorable Linda Doggett
Clerk of the Circuit Courts
Lee County
Post Office Box 2469
Fort Myers, Florida 33902-2469

Attention: Ms. Marcia Wilson, Deputy Clerk

Dear Ms. Doggett:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated May 30, 2013 and certified copies of Lee County Ordinance Nos. 13-09 and 13-10, which were filed in this office on June 3, 2013.

Sincerely,

A handwritten signature in black ink that reads "Liz Cloud".

Liz Cloud
Program Administrator

LC/elr

