

LEE COUNTY ORDINANCE NO. 05-17

AN ORDINANCE OF LEE COUNTY, FLORIDA, AMENDING AND RESTATING LEE COUNTY ORDINANCE NO. 96-12, CREATING THE LEE COUNTY CONSERVATION LAND ACQUISITION AND STEWARDSHIP ADVISORY COMMITTEE; PROVIDING FOR CRITERIA RELATING TO THE PROCEDURAL IMPLEMENTATION OF LEE COUNTY'S AD VALOREM TAX LEVY PROGRAM TO PURCHASE AND IMPROVE ENVIRONMENTALLY CRITICAL OR SENSITIVE LANDS; PROVIDING FOR OBJECTIVES AND DUTIES OF THE COMMITTEE; PROVIDING FOR APPOINTMENT, COMPOSITION, TERMS AND PROCEDURES; PROVIDING FOR *REPEAL* AND AN EFFECTIVE DATE.

WHEREAS, 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, Lee County has determined it is in the public's interest to submit to voter referendum the issue of whether the County should be authorized to levy and use certain ad valorem tax funds to finance the purchase and improvement of said lands; 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, the Board of County Commissioners recognizes the need for the creation of an advisory committee in order to advise the County and public in the implementation of the 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, the Board of County Commissioners now desires to amend and restate Lee County Ordinance No. 96-12 in order to better apply the principles of the Program as the result of certain recommendations from the "Land Committee".

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

AMENDMENTS

Amending verbiage to the text of this Ordinance is shown in italic type.

SECTION ONE: **NAME:**

This Ordinance shall be known as the Lee County Conservation Lands Implementation Ordinance.

SECTION TWO:

CREATION OF AN ADVISORY COMMITTEE:

The Board of County Commissioners hereby creates and establishes the Conservation Lands Acquisition and Stewardship Committee, hereinafter called “The Land Committee”.

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.

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.
- 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 will be appraised by one or more certified appraisers.
- 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.

SECTION FIVE: **APPOINTMENT AND COMPOSITION:**

The Board of County Commissioners shall appoint fifteen (15) members to the Land Committee, as herein established. It is the intent to establish an advisory committee with a balance of environmental, business, government and civic interests in Lee County. The membership will be established by the Board upon consensus vote after a review of recommendations of appointees. Each Board member shall nominate three (3) members to the Committee.

SECTION SIX: **TERMS OF MEMBERS:**

The members to the Land Committee shall be appointed by the Board for a term up to three (3) years. The membership hereof shall be appointed within thirty (30) days after the favorable adoption of the non-binding Referendum of November 5, 1996 on the land acquisition issue. The Board will make subsequent appointments or reappointments in the same manner as the original appointments. Members may be replaced subject to confirmation of the Board. Unless otherwise provided by the Board, replacement members will serve the unexpired term.

The Board may remove any member who is absent for four (4) consecutive meetings upon a recommendation from the Land Committee.

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.

SECTION EIGHT: **SEVERABILITY:**

The provisions of this Ordinance are severable and it is the legislative intention to confer upon the whole or any part of the Ordinance the powers herein provided for. If any of the provisions of this Ordinance shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any remaining provisions of the Ordinance. It is hereby declared to be the legislative intent that this Ordinance would have been adopted had such unconstitutional provision not been included herein. Any *additional*, subsequent amendments to *this Ordinance* shall not in any way affect the validity of the levy of millage and use of tax proceeds for the Land Acquisition Program or the referendum vote of November 5, 1996. The provisions of this *Amended and Restated* Ordinance, as a procedural implementing document, shall be deemed separate and apart from *the* ad valorem tax financing and related actions.

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

It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Lee County Code; and that sections of this Ordinance may be renumbered or relettered 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 and relettered and typographical errors which do not affect the intent may be authorized by the County *Manager*, or his designee, without need *for a* public hearing, by filing a corrected or recodified copy of same with the Clerk of *the* Circuit Court.

SECTION TEN: **EFFECTIVE DATE:**

This Ordinance shall *become* effective upon official filing with the Secretary of the State of Florida.

SECTION ELEVEN: **REPEAL:**

Lee County Ordinance No. 96-12 is hereby repealed in its entirety. The terms and conditions of this Ordinance will supercede and replace the terms and conditions of Ordinance No. 96-12.

[BALANCE OF PAGE INTENTIONALLY LEFT BLANK]

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

BOB JANES	<u>ABSENT</u>
DOUGLAS ST. CERNY	<u>AYE</u>
RAY JUDAH	<u>AYE</u>
TAMMY HALL	<u>AYE</u>
JOHN E. ALBION	<u>AYE</u>

DULY PASSED AND ADOPTED this 13th day of September, 2005.

ATTEST: CHARLIE GREEN
CLERK OF COURTS

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: 
Deputy Clerk

By: 
Chairman

APPROVED AS TO FORM:

By: 
Office of the County Attorney



FLORIDA DEPARTMENT OF STATE
Glenda E. Hood
Secretary of State
DIVISION OF LIBRARY AND INFORMATION SERVICES

September 19, 2005

Honorable Charlie Green
Clerk of Circuit Court
Lee County
Post Office Box 2469
Fort Myers, Florida 33902-2469

Attention: Michelle G. Cooper, Deputy Clerk

Dear Mr. Green:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated September 16, 2005 and certified copies of Lee County Ordinance Nos. 05-16 and 05-17, which were filed in this office on September 19, 2005.

Please be advised that the Florida County Ordinance Data Retrieval System (CODRS) Coding Form was not received for the above mentioned ordinances.

Sincerely,

A handwritten signature in cursive that reads "Liz Cloud" with a small "um" underneath.

Liz Cloud
Program Administrator

LC/kcs

2005 SEP 26 PM 12:12
RECEIVED
MINUTES OFFICE