

ORDINANCE NO. 03-62

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, PROVIDING FOR THE ACQUISITION, PROTECTION, AND MANAGEMENT OF ENVIRONMENTAL LANDS; PROVIDING FOR A SHORT TITLE; PROVIDING FOR APPLICABILITY; PROVIDING FOR THE PURPOSES; PROVIDING FOR DEFINITIONS; PROVIDING FOR THE ENVIRONMENTAL LANDS MANAGEMENT AND ACQUISITION COMMITTEE; PRESCRIBING THE PURPOSES AND AUTHORITY OF THE ADVISORY COMMITTEE; PRESCRIBING THE MEMBERSHIP THEREOF; PROVIDING FOR OTHER MATTERS RELATED THERETO; PROVIDING FOR PROCEDURES FOR ACQUISITION, PROTECTION AND MANAGEMENT OF ENVIRONMENTAL LANDS; PROVIDING FOR USE OF PROTECTED LANDS; PROVIDING FOR DISPOSITION OF LANDS; PROVIDING FOR NEGOTIATIONS FOR THE PURCHASE, SALE OR EXCHANGE OF REAL PROPERTY OR REAL PROPERTY INTERESTS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

2003 OCT 13 PM 2:48

FILED

FILED FOR RECORD
R. B. SHORE

2003 OCT 16 PM 3:12

CLERK OF THE CIRCUIT COURT
MANATEE CO. FLORIDA

WHEREAS, the Board of County Commissioners of Manatee County, Florida, has previously adopted Resolution No. R-92-149, establishing an Environmental Lands Management and Acquisition Committee; and

WHEREAS, the history of Manatee County is marked by efforts to conserve the County's unique environmental heritage and to protect our water resources; and,

WHEREAS, it is in the best interests of the citizens of Manatee County that action be taken in order to protect for future generations the natural resources of Manatee County by acquiring, improving, and managing environmental lands; and,

WHEREAS, the acquisition of these environmental lands will provide opportunities for both existing residents and future generations to enjoy wild and scenic areas and will provide opportunities for resource-based recreation and educational uses as well as opportunities to maintain water quality; and,

WHEREAS, the Manatee County Comprehensive Plan (Goal 3.3) calls on the County to "protect, enhance, and maintain the natural floral and faunal resources of Manatee County to aid in filtration of contaminants, provide for the preservation of native species for passive recreational and aesthetic enjoyment, and to provide a healthy environment for Manatee County residents and visitors;" and,

WHEREAS, Article 2, Section 7(a) of the Florida Constitution states that it shall be the policy of the State of Florida to conserve and protect its natural resources and scenic beauty and that adequate provisions shall be made for the adequate protection and conservation of natural resources; and,

WHEREAS, this ordinance establishes a protocol for identifying and protecting environmental lands and is intended to protect the private property and development rights of citizens within Manatee County.

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

Section 1. Short Title. This Ordinance shall be known as the Manatee County Environmental Land Management and Acquisition Ordinance.

Section 2. Applicability. The provisions of this Ordinance apply in the unincorporated and incorporated areas of Manatee County, Florida.

Section 3. Purposes: The purposes of this Ordinance are to establish an efficient, fair, well-planned and economically sound procedure for the acquisition, protection, and management of environmental lands; to provide assurance to the public that funds obtained pursuant to this Ordinance including any voter approved funding are dedicated to the purposes of this Ordinance; to ensure public participation in decisions made pursuant to this Ordinance; and to accomplish such purposes without establishing regulations upon property and landowners who choose not to participate in the program established herein.

Section 4. Definitions. As used in this Ordinance, the words provided below shall have the meaning set forth below unless the context clearly indicates that a different meaning is required:

- A. **Board:** The Board of County Commissioners of Manatee County, Florida.
- B. **Best Management Practices:** Method or combination of methods determined after problem assessment, examination of alternative practices, and appropriate public participation, to be the most effective and practicable means of reducing or preventing nonpoint source pollution to levels compatible with water quality goals. These measures could include both structural (e.g., sediment/debris basins, wetland impoundment of agricultural runoff, etc.) and nonstructural (e.g., street vacuuming, deferred grazing systems, etc.) approaches to abatement of nonpoint source pollution, and would vary on a regional and local basis depending on the nature of the problems, climate, physical characteristics, land use, soil types and conditions and other factors.
- C. **Conservation Easement:** One or more restrictions on land use granted by the owners of fee title which legally bind present and future owners to the restrictions set forth

therein when such interest is conveyed to a conservation organization, trust, or governmental agency as more fully set forth in Section 704.06, Florida Statutes, as amended, or additional policies established by the County.

- D. County: Manatee County, Florida.
- E. County Staff: Any County employee whose expertise is deemed necessary to implement this Ordinance and assigned to fulfill any duties prescribed by this Ordinance.
- F. Due Diligence: Investigation and review of property prior to acquisition of any interest therein, including, without limitation, independently conducted appraisals, title searches, and commitments, surveys, environmental assessments, and any other items deemed necessary by County Staff.
- G. Environmental Lands Management and Acquisition Committee or ELMAC: An advisory committee originally established pursuant to Resolution No. R-92-149, and reestablished pursuant to the terms of this Ordinance.
- H. Environmental Lands: Those lands in Manatee County that have natural features meeting criteria established by this Ordinance, including rarity of species or habitat, connectiveness, ecological quality and importance to water resources thereby warranting their protection in the natural state for the public interest.
- I. Fee Title: Acquisition of all controlling property interest in a parcel of land through a formal conveyance of title.
- J. Management: Best management practices for the maintenance, creation or restoration of native ecosystems, including natural communities and wildlife habitats, wetlands and water resources to support native ecosystems, along with provisions for public access including planning, design, construction and maintenance of public facilities to support natural resources based, passive recreation on lands where an adequate County property interest has been established.
- K. Passive Recreational Use: Any public recreational pasttime which customarily has no adverse impacts on a site and is generally conducted in such a way as to be compatible with natural and/or cultural resource protection. Uses may include low impact camping, horseback riding, education/nature studies, sightseeing, scenic appreciation, fishing, hiking, swimming, wildlife management, or a similar activity, as well as those support facilities associated with said uses.
- L. Property Interest: A right, claim, or legal share in lands such as a lease, easement, fee title, water rights, mineral rights, and any other reservation, interest, or restriction.

- M. Priority List: The list of environmental lands developed by the ELMAC Advisory Committee with the assistance of County Staff as confirmed or revised by the Board of County Commissioners at a public meeting. This list will be comprised of the sites that meet the criteria established in this Ordinance and will comprise the sites that will be acquired by fee title or other property interest, or that will otherwise be the subject of protection and management activities pursuant to this Ordinance. The Priority List shall be by groupings and need not include numerical rankings.
- N. Relative: An individual who is related to a person as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.
- O. Site Nomination: Sites proposed for acquisition and management consideration under this ordinance whether nominated by the ELMAC Committee, County consultant, general public, public organizations, or private conservation organizations.
- P. Tax Incentives: A form of tax relief provided to a landowner of environmental lands which allows the reassessment of the development value of a property if an easement has been granted for the environmentally sensitive portions of the property.
- Q. Transfer of Development Rights: A process that provides for the transfer of some or all of the development rights for a piece of property to another area which can better accommodate urban development in exchange for the protection of environmental lands within the original parcel of land.
- R. Use Reservation: The acquisition of title to land with provisions that allow the present, existing extent of land uses such as residency, agriculture, grazing, or hunting to continue. Use Reservations are typically associated with Conservation Easements.
- S. Work Plan: A plan which sets forth the schedule of pre-acquisition activities for the evaluation and protection of lands identified on the List, including the protection methods and strategies to achieve the protection plans. Appraisals, funding, and land management costs will also be included in the Work Plan if necessary.

Section 5. Environmental Lands Oversight Committee.

- A. Creation of the Environmental Lands Management and Acquisition Committee: There is hereby established a voluntary advisory board, to be known as the Environmental Lands Management and Acquisition Committee (ELMAC).

Appointments of members of the Committee shall be in the manner set forth herein. Notice of openings shall be published, and members shall be appointed by majority vote of the Board pursuant to this Ordinance. Applicants for Committee membership shall follow the procedures set by the Board regarding advisory board applications, and shall assure the Board of the lack of conflicts and potential conflicts of interest. This Committee is advisory only and may be abolished, disbanded or reorganized by amending this Ordinance.

B. Purposes and Duties of the Environmental Lands Management and Acquisition Committee:

1. The general purpose of the Environmental Lands Management and Acquisition Committee shall be to advise the Board on matters related to environmental land acquisition and management, and passive recreational planning and programming for acquired lands. This ordinance shall apply to lands previously acquired by the County that are explicitly designated as governed by this Ordinance by the Board and to lands and property interests acquired after the adoption of this ordinance whether from funds designated by the Board or funds approved by voter referendum. This Committee will provide a forum for multiple interests and user groups to express their wishes for management of County-owned lands and passive recreational facilities.
2. The specific duties of the Environmental Lands Management and Acquisition Committee are those provided in this Ordinance and otherwise assigned by the Board, and may also include:
 - a. identifying and evaluating lands meeting the criteria for acquisition and management as public passive recreation areas;
 - b. developing a countywide inventory of environmental lands;
 - c. for purposes of acquisition, devising and updating the methodology by which a priority ranking may be assigned to the County's environmental lands;
 - d. researching and evaluating additional potential acquisition funding mechanisms;
 - e. assisting staff in developing management plans for lands that the County has acquired or is planning to acquire;
 - f. assisting in efforts at the State level to secure sources of State funding for environmental lands purchases and planning;

- g. researching other jurisdictions' environmental lands acquisition and management programs;
- h. advising the Board on the disposal of any county-owned environmental lands; and,
- i. performing other appropriate tasks that may be assigned by the Board in the future.

C. Authority of the Environmental Lands Management and Acquisition Committee:

1. The Committee shall have the authority to elect officers from its membership to serve the needs of the Committee. Officers elected by the Committee will be a Chairman and Vice-Chairman.
 - a. Chairman – the duties of the Chairman will be to preside at all meetings and to see that the work is carried out in a constructive and businesslike manner. The Chairman of the Committee or his/her appointee will be the liaison to work closely with the County Administrator or his/her designee. The Chairman will appoint special committees where and when needed to work on any of the aforementioned duties, and will oversee the work of such subcommittee.
 - b. Vice-Chairman – the Vice-Chairman will preside in the absence of the Chairman and will be available to assist the Chairman when requested.
2. Further, the Committee shall have the authority to set the time and place for its meetings. The Committee will meet on a schedule, and at a time and place to be determined by the Committee. Meetings may be rescheduled or a special meeting called by the Committee at any regular meeting. In addition, the Chairman shall have the authority to call a special meeting. Upon a decision to cancel a meeting, Committee members and the Board shall be notified by phone if the decision is made less than seven (7) days prior to the scheduled meeting; otherwise, notification shall be by letter. Meetings will be advertised as to time and place. Each meeting will have a prepared agenda for distribution, and records will be kept. A majority of currently-appointed Committee members will constitute a quorum for the conducting of Committee business.

3. The Committee will carry out its responsibilities in the most cost-effective manner. Expenses incurred by the Committee or a member thereof, in pursuing its duties, may be paid directly or reimbursed by the Board in accordance with applicable laws and policies established by the Board, which shall require prior approval and administrative authorization before making any expenditures.
4. The Committee shall report its findings and recommendations to the Board, in open session, at least once annually. Said reports shall only be made by the Chairman or Vice-Chairman of the Committee, upon the advice of and consent of a majority of the Committee.

D. Membership of the Committee.

1. The Committee will be made up of fifteen (15) members. To the extent possible, members shall have expertise in ecology, conservation of natural resources, real estate or land acquisition business and land development, land planning, land management, or environmental education. An applicant shall submit evidence of his or her expertise in any of the above. The Board shall appoint Committee members from the following groups or with the following affiliations:
 - a. a member from the Florida Engineering Society;
 - b. a member schooled in a natural science: ecology, biology, botany, etc.;
 - c. a member with background or education in active outdoor sports;
 - d. a member of a local environmental group;
 - e. a member recommended by the Manatee Chamber of Commerce;
 - f. two (2) year round residents of Manatee County, one of whom shall be a resident of one of the communities on Anna Maria Island or Longboat Key;
 - g. an employee of the Manatee County School Board;
 - h. a member with background/education in banking, finance, or real estate.

- i. A member engaged in the agricultural business of farming, ranching or commercial horticulture; and
 - j. Five (5) at-large members who are residents of Manatee County.
2. All members shall be permanent residents of Manatee County as defined in §196.012, Florida Statutes.
 3. The County Administrator or his/her designee is hereby assigned the responsibility of providing clerical and administrative support to the Committee. The County Attorney's Office will be responsible for the legal needs of the Committee, but only as specifically directed, from time to time, by the Board.

E. Terms and Eligibility Requirements:

1. Terms of service on the Committee will be for three (3) years, with re-appointment at the discretion of the Board. Members whose terms have expired may continue serving until the Board selects a replacement. Initial appointments may be for one (1), two (2) or three (3) years to provide a balanced rotation of new members.
2. A member missing three (3) consecutive meetings in a calendar year may be removed from the Committee by the Board upon the recommendation of a majority of the Committee. The Board may appoint a new member for the remainder of the term.
3. Should any member of the Committee be unable to complete his or her term of office, the Board may appoint other(s) to complete the balance of the term of that position.
4. A member appointed as a result of specific affiliation may continue, in the Board's discretion, to serve for the remainder of the term even if the affiliation has changed.
5. The terms of the Chairman and Vice-Chairman shall be restricted to no more than two (2) consecutive two-year terms in those offices.

- F. Administrative Coordinator. The County Administrator or his/her designee shall serve as the staff liaison to the Committee and shall establish procedures consistent with County policy concerning Committee appointments, development of budgets, expenditures of County funds, providing of clerical services and meeting facilities,

and performing other administrative matters which affect the normal operations of the Committee.

Section 6. Environmental Lands Acquisition, Management and Protection Policies.

- A. **Acquisition, Management and Protection:** The County will acquire, manage and protect environmental lands in a manner that is consistent with the goals and objectives set forth in this Ordinance and the policies of the Manatee County Comprehensive Plan.
- B. **Priorities:** The County will restrict its acquisition, management and protection to property interests, whether previously or hereafter acquired, which have been evaluated utilizing the criteria specified in Attachment A and approved by the Board for the Priority List after review and recommendation by the ELMAC Committee, and subject to a final determination by the Board.
- C. **Acquisition, Management and Protection Methods:** The County will acquire environmental lands, or an interest therein, pursuant to this Ordinance only after obtaining voluntary approval of the landowner. Methods of acquisition of fee title or property interests will include, but not be limited to, conservation easements, tax incentives, compensation, transfer of development rights, exchanges, use reservations, acceptance of gifts of land, donations, and acquisition of property interests.
- D. **Cooperation with Other Groups:** The County will work in a cooperative manner with, but not limited to, the following entities in the protection of environmental lands:
1. Private landowners.
 2. Municipalities.
 3. Private non-profit organizations and land trusts.
 4. Florida Department of Environmental Protection.
 5. Southwest Florida Water Management District.
 6. Florida Fish and Wildlife Conservation Commission.
 7. Department of Community Affairs.
 8. Appropriate federal, state and local agencies.

- E. Cooperation with Profit and Non-Profit Groups: The County will cooperate and consult with profit and non-profit conservation organizations and trusts regarding purchase negotiations with willing sellers, environmental inventories and audits, matching funding, and procedures and processes for the acquisition and management of environmental lands. In no event shall this Ordinance, the authority granted hereunder, or the efforts of any such organization create an agency relationship, express or implied, between the organization and the County. The County shall not be bound by any person or entity to approve or complete any transaction involving real property or real property interests, as a result of the negotiations or other acts of omissions of such organizations, unless and until approved by formal action of the Board.
- F. Matching Funding Source: When desirable matching fund opportunities exist, the County will follow and implement protection procedures for environmental lands in accordance with the State of Florida's Florida Forever program, Save Our Rivers program, Florida Communities Trust program, and other matching fund programs to enhance opportunities for securing matching funding from these programs for protection of environmental lands.

Section 7. Environmental Lands Procedure for Setting Priorities.

- A. Procedure: The County's procedure for listing and ranking sites on the Protection Priority List will be as follows:
1. Site Nominations: County Staff will assemble all available resources and identify sites nominated by the County consultant, general public, public organizations and private conservation organizations. There will be no ranking of the sites nominated; the sites will be listed randomly and not in order of importance. Sites may be nominated at any time.
 2. Eligibility: County Staff will review nominated sites, apply the selection criteria to determine eligibility, and report to ELMAC. The ELMAC Committee will review the list of eligible sites for approval to develop priority groupings.
 3. Participation: County Staff will contact or oversee contacts with the landowners of sites based upon priority groupings to introduce the program, determine their willingness to participate in the program, and advise ELMAC if the landowner is a willing participant.
 4. Designation: County Staff will revise the eligible sites to include only those lands for which willing participants exist, thereby comprising the Priority

List. Owner participation may be withdrawn or initiated at any time until a legal agreement for protection has been fully executed.

5. Work Plan: The ELMAC Committee and County Staff will develop a Work Plan for each site on the Priority List. The Work Plan will include protection methods, strategy to achieve protection, funding sources and methods, land management strategies and costs, and public access.
6. Approval: The Work Plan adopted by ELMAC will be presented by County Staff to the Board. The Board may either accept, reject, or modify the Work Plans.
7. Implementation: Upon Board approval, County Staff will implement the Work Plans.
8. Contractual Negotiation: Contractual negotiation for lands identified on the Priority List will not begin until:
 - a. A Work Plan has been completed and approved by the Board.
 - b. Required funds are identified.
9. Evaluation: The ELMAC Committee and County Staff will review and update the Priority List at least once annually. Owner willingness and conformance with the criteria will be the basis for changes to the List. Any changes to the List must be forwarded from the ELMAC Committee to the Board for consideration, except for deletions at the landowner's request, which will be deleted immediately by County Staff.

Section 8. Use of Lands. Property held in fee simple by the County and acquired, managed or protected with funds made available pursuant to this Ordinance may serve multiple uses, provided that no use shall negatively impact the native species, habitats or ecological processes of the site (except as provided in Section 9 below).

Section 9. Disposition of Lands. In some cases the County may acquire fee simple title to a property that does not meet the requirements of this Ordinance in order to manage or protect a portion of the property or for the purpose of water resource development, e.g., future surface water impoundment. In the event that land not qualified under this Ordinance is so acquired, such land may be utilized for other public purposes (e.g., stormwater retention, potable water supply, rights-of-way, active recreation, buffering, and other public facilities), or declared surplus and offered for sale. If sold or used for other public purposes, the proceeds of the sale or an amount equal to the value of the property shall be deposited in the fund used for the original purchases.

Section 10. Persons Authorized to Negotiate, Obligation to Maintain Confidentiality and Public Records Law.

- A. The Board shall, by majority vote, authorize the appropriate County Staff member(s) to negotiate for the purchase, sale, or exchange of real property, or real property interests, on behalf of the County, pursuant to the terms of this Ordinance.
- B. No member of the Board, or ELMAC, shall directly negotiate for the purchase, sale, or exchange of real property, or real property interests, on behalf of the County, pursuant to the terms of this Ordinance, unless authorized to do so by a majority vote of the Board.
- C. No person or entity shall be authorized to negotiate on behalf of the County, or otherwise be directly involved in the purchase, sale or exchange of real property, or real property interests, pursuant to the terms of this Ordinance, if that person, entity, or a relative of that person has a financial interest in the transaction.
- D. Except to the extent required under §119.07, Florida Statutes, as amended, no person acting on behalf of the County shall divulge information obtained in their official capacity with respect to any proposed purchase, sale or exchange of real property, or real property interests, pursuant to the terms of this Ordinance, for the purpose of giving the third party an unfair advantage. Nothing contained in this paragraph shall constitute a waiver by the County of its right to claim exemptions under §119.07, Florida Statutes, as amended. Furthermore, the provisions of §125.355, Florida Statutes, as amended, may be invoked by the County to maintain the confidentiality of appraisals, offers and counteroffers as allowed by that statute.
- E. Persons acting on behalf of the County during the period of active negotiations for real property, or real property interests, pursuant to the terms of this Ordinance, shall provide a written statement verifying that neither they, the entity which they are employed by or otherwise represent, or a related person has a financial interest in the proposed transaction, and they acknowledge their agreement to maintain the confidentiality of information and documents as described in this Ordinance.
- F. No contract or agreement negotiated pursuant to the terms of the Ordinance for the purchase, sale, transfer or exchange of real property or real property interests shall be binding upon the County unless approved by a vote of the Board in a public meeting.

Section 11. Severability. The provisions of this Ordinance are severable and if any section, subdivision, sentence, clause, or provision is held invalid by any court of competent jurisdiction, the remaining provisions of this Ordinance shall not be affected by such invalidation unless such invalidation would frustrate the fundamental purposes of this Ordinance.

Section 12. Effective Date: This Ordinance shall take effect upon filing with the Department of State and Resolution R-92-149 shall be rescinded.

ADOPTED with a quorum present and voting this 7th day of October, 2001/3

ATTEST: R. B. SHORE

BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA

By: Susan D. Romine
Clerk of the Circuit Court

By: [Signature]
Chairman



STATE OF FLORIDA, COUNTY OF MANATEE
This is to certify that the foregoing is a true and correct copy of the documents on file in my office.
Witness my hand and official seal this 9th day of October, 2013
R. B. SHORE
Clerk of Circuit Court
By: Kent Ludwig

10/16/03

CC: P. Hennen, County Admin.
Muni Code

Ⓟ



STATE OF FLORIDA
DEPARTMENT OF STATE

JEB BUSH
Governor

GLEND A. HOOD
Secretary of State

October 14, 2003

FILED FOR RECORD
R. B. SHORE

2003 OCT 16 PM 3: 11

CLERK OF THE CIRCUIT COURT
MANATEE CO. FLORIDA

Honorable R. B. Shore
Clerk of the Circuit Court and Comptroller
Manatee County
Post Office Box 1000
Bradenton, Florida 34206

Attention: Diane E. Vollmer

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated October 9, 2003 and certified copy of Manatee County Ordinance No. O-03-62, which was filed in this office on October 13, 2003.

As requested, the date stamped original is being returned for your records.

Sincerely,

Liz Cloud
Program Administrator

LC/mp

Kent Cudney

From: charlie.hunsicker@co.manatee.fl.us
Sent: Tuesday, January 06, 2004 5:46 PM
To: Kent Cudney
Cc: Susan Romine
Subject: Attachment A

Kent,

I wish to file a correction for the record to the documents submitted as Ordinance 03-62, filed with the Secretary of State on October 13, 2003, and filed for record with the Clerk of Circuit Court on October 16, 2003. In Section 6, Paragraph B, Priorities, reference is made to utilizing criteria for prioritizing environmental lands specified in Attachment A. This specific reference to "Attachment A" was a carry-over from a previous draft and no longer relevant to the adopted text of Ordinance 03-62. As such, this reference should be considered a scribe's error, leaving the criteria mentioned in this section to be spelled out and approved by the Board at a later date by process of ordinance amendment or adoption of a new ordinance.

If there are any questions, or need for clarification of this explanation and correction to the record, please do not hesitate to contact me.

Need to reach me outside of e-mail?

Charlie Hunsicker
Ecosystems Administrator
Manatee County Government
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Bradenton, FL 34206
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Remember, Florida has a very broad public records law defining all incoming and outgoing e-mail as a matter of public record and open for inspection. Please be aware of this condition when sending or forwarding email from your worksite.