



**2020 Charter Review Commission
Committee Meeting Agenda
Permanent Funding of Green PLACE
Thursday, March 12, 2020 – 4:00 p.m.**

Orange County Administration Center 201 S. Rosalind Avenue, Orlando, FL
4th Floor – Martha O. Haynie Conference Room

Call to Order

I. Public Comment

II. Invited Guest:

- Beth Jackson, County EPD

III. Committee Chair Comments

IV. Members Open Discussion

V. Future Action Plan

CRC Members:

Camille Evans, Chair – James R. Auffant, Vice Chair

Jack Douglas – Russell Drake – John E. Fauth – Matthew Klein – Angela Melvin – Jeffrey A. Miller – Nikki Mims – Samuel Vilchez Santiago – Soraya Smith – Lee Steinhauer – Eugene Stoccardo – Anthony (Tony) Suarez – Dotti Wynn

administrative value is lost. Land-line voicemail messages shall not be retained by the ISS Division for longer than ten (10) days. In the event an employee/official receives a non-transitory voicemail message, a transitory voicemail message on his/her mobile device, or a transitory voicemail message on a land-line telephone that will not be obsolete within ten (10) days, the recipient shall be responsible for retaining the content in accordance with the Public Records Law.

H. The County will not expect, encourage, or require an employee/official to provide or use a personal mobile device or land-line telephone to perform any of the employee's/official's assigned job duties or responsibilities. County business transacted on a personal mobile device or land-line telephone may be subject to disclosure under the Public Records Law. Furthermore, transacting County business on a personal mobile device or land-line telephone may place in jeopardy the privacy of communications that do not meet the definition of "public record" under the Public Records Law. If an employee/official decides to use his/her personal mobile device or land line to transact County business, it shall be the employee's/official's responsibility to take all appropriate steps at his or her own cost to ensure that any public records generated on such device is retained consistent with the Public Records Law and Administrative Regulation 2.06 so that, if necessary, it may be produced for inspection and examination.

I. Non-exempt County employees are prohibited from accessing or utilizing the County's internet, email, voicemail or other systems and applications to perform work outside of their scheduled work hours, from their personal or County-assigned mobile devices, land-line telephones, or other electronic equipment, such as computers, without first receiving the written approval of their supervisor or manager. When written authorization is granted for access or use outside of scheduled work hours, the non-exempt employee shall keep a log of that usage to ensure proper compensation.

FOR MORE INFORMATION CONTACT: Purchasing & Contracts Division, Information Systems and Services Division,

Miscellaneous 8 (08/21/18)

Administrative Services Department; Finance & Accounting Division, Orange County Comptroller

REFERENCE: None
APPROVED: 6/27/06
REVISED: 02/26/13

11.07 LOST OR ABANDONED PROPERTY FOUND BY COUNTY EMPLOYEE

I. POLICY:

1. Each County department shall designate a representative to process all lost or abandoned property reports for that department.

2. Each Department Director shall provide the Administrative Services Department Director with a list of designated representative(s). The list shall be updated on a yearly basis or as changes occur.

II. PROCEDURES:

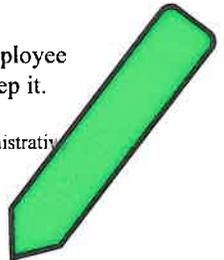
1. Whenever any County employee finds any lost or abandoned property during the course of his official duties, such person shall report it to his department representative.

2. The department representative shall report the description and location of the lost or abandoned property to the Orange County Sheriff's Office.

3. The ownership of any unclaimed property shall be vested in the County and not in the employee as per Section 705.104, Florida Statutes.

4. It is unlawful for any Orange County employee who finds any lost or abandoned property to keep it.

FOR MORE INFORMATION CONTACT: Administrative Services Department
REFERENCE: Chapter 705, Florida Statutes
APPROVED: 9/18/89
REVISED: 6/27/06



11.07.01 ENVIRONMENTALLY SENSITIVE LANDS ACQUISITION

I. POLICY

A. Since 1992, it has been the policy of Orange County that the acquisition of environmentally sensitive lands is an important and appropriate role for government to assume and that environmentally

sensitive lands are important to the health and well being of the citizens and the natural environment.

- B. The Board deems it necessary to re-evaluate, as necessary, these environmentally sensitive lands pursuant to certain ecological criteria, evaluate newly proposed land acquisitions, if necessary, and evaluate the results of purchase negotiations, to ensure that acquisition of environmentally sensitive property complies with certain standards.

C. A portion of the Public Service Tax has been dedicated towards environmentally sensitive lands and it is necessary to ensure that proceeds from the Public Service Tax Bond issue are applied solely toward the acquisition of land and construction improvements thereto for environmental, ecological, and recreational purposes, including but not limited to, associated appraisal, survey, title and due diligence investigation costs of these environmentally sensitive lands.

D. It is necessary to ensure that proceeds from the Public Service Tax Bond Issue are effectively and efficiently expended for acquisition of environmentally sensitive lands such that the greatest public benefit is obtained for the least cost.

II. PROCEDURES

A. The County Administrator or designee shall have the following responsibilities:

- 1. Identify environmentally sensitive lands based on the criteria set forth in Section II.C. below. Purchase negotiations and due diligence investigations shall be conducted for sites so identified. For the purpose of this Regulation, due diligence shall mean but not be limited to independently conducted appraisals, surveys, title search, environmental audits and any other items deemed necessary for acquisition. All properties identified shall be treated equally for purposes of acquisition in order to create competition among sellers for scarce funds.

- 2. Based on the results of purchase negotiations and the due diligence conducted by the Orange County Real Estate Management Division, Risk Management Division, Environmental Protection Division, or other appropriate County or State agencies may comment to the Board of County Commissioners in connection with each specific property purchase to be made with funds from the Public Service Tax Bond

proceeds.

- 3. Evaluate new lands proposed for acquisition by property owners or other entities.

- 4. Prepare an annual report for the Board of County Commissioners on the status of the environmentally sensitive lands acquisition program. The annual report shall also include an evaluation of the program.

B. Application Process for New Properties:

Persons or organizations who wish the County to consider new lands for acquisition shall submit a completed application to the County Administrator or his designee. Application forms may be obtained from the Environmental Protection Division. The County Administrator or designee shall review each application for completeness. If the application is incomplete, the applicant shall submit the required information within thirty (30) days of request by the County or the application shall be considered withdrawn. Once the application is complete, the County Administrator or his designee shall complete evaluation of the new lands within six (6) months pursuant to Section II.C. of this regulation. The applicant shall be notified in writing of the decision.

C. Evaluation and Selection Criteria:

- 1. The funds provided by the sale of Public Service Tax Bonds shall only be used to purchase environmentally sensitive lands that:

- (a) Are identified as such by Orange County Environmental Protection Division.

- (b) Have public benefits, as determined by application of one or more of the following criteria:

- (1) Rarity in Orange County of the native ecosystems present;

- (2) Diversity of the native

ecosystems, plants and animals present;

- (3) Presence of species listed as endangered, threatened, rare or of special concern by the U.S. Fish and Wildlife Service, Florida Fish and Wildlife Conservation Commission, Florida Committee on Rare and Endangered Plants and Animals, Florida Department of Agriculture, or the Florida Natural Areas Inventory, their successors, or other commonly acknowledged conservation entities;
- (4) Contiguity with other publicly owned lands or property interests (i.e., conservation easement);
- (5) Manageability (opportunities for operation/management) of the project site;
- (6) Availability of funding from other government agencies or non-profit organizations;
- (7) Likelihood of events which might degrade or destroy the site; and
- (8) Amount of protection afforded by existing County regulations or other regulation or law.

2. Lands considered to be in the public interest for which no public entity is willing to participate; or

3. Lands considered to be in the public interest and for which a private partner is willing to pay all, or a portion of the costs, and will dedicate to Orange County all development rights and convey a permanent conservation easement to Orange County.

D. Acquisition Criteria and Process

1. To ensure flexibility that monies for the acquisition of environmentally sensitive lands are

expended for the greatest public benefit at the least cost, the following items shall be considered during the acquisition process:

- (a) Partial donation, conservation easements, property exchanges, and bargain sales shall be pursued to the greatest extent;
- (b) Projects facing imminent threat of development activities that will degrade, destroy, or increase the market value of the project shall be brought back to the County Administrator or designee for re-evaluation;
- (c) A proposal or recommendation for purchase may be submitted to the Board wherein the purchase price of the site exceeds its average appraised value as established by appraisals paid for by the County if it is deemed that the property is of sufficient value and importance to ensure its preservation.

2. The acquisition process shall follow County procedure and regulations.

FOR MORE INFORMATION CONTACT: Environmental Protection Division, Community and Environmental Services Department

REFERENCE: None

APPROVED: 11/10/92

REVISED: 6/22/99; 6/27/06

11.08 UNLICENSED CONTRACTING

I. POLICY

Article IX of Chapter 9 of the Orange County Code establishes a construction industry regulatory program in Orange County. Particularly, it establishes a civil citation program, outlining prohibited activities and penalty enforcement.

II. PROCEDURES

A. Section 9-323 states in part that the county administrator is authorized to designate certain persons as code enforcement officers to enforce the provisions of this article. The County Administrator has designated the Orange County Consumer Fraud Unit

Green PLACE Properties

Property	Date of Purchase	~ Acreage	Funding Partners	~ Costs		Hydrologic Basin
				County	Partner	
Aquisitions						
Long Branch Preserve	Aug-90	550	SJRWMD	\$ 1,514,850.00	\$ 836,450.00	Econlockhatchee River
Ken Bosserman Econlockhatchee River Preserve	Jun-74	122.5		\$ 300.00	\$ -	Econlockhatchee River
Split Oak Wildlife and Environmental Area	Jun-95	1689	FCT, Osceola County and FWC	\$ 3,004,615.00	\$ 5,609,285.00	Lake Hart
Hal Scott Regional Park and Preserve	Feb-96	8427	SJRWMD	\$ 12,401,500.00	\$ 19,724,900.00	Econlockhatchee River
Ken Bosserman Econlockhatchee River Preserve	Jun-97	9		\$ 81,500.00	\$ 0	Econlockhatchee River
Vienna Property	May-94 & Jun-97	26.18		\$ 36,200.00	\$ -	Econlockhatchee River
Hidden Pond Preserve (County assumed SJRWMD 50% interest in Oct 2014)	Aug-98	111.5	SJRWMD	\$ 38,000.00	\$ 38,000.00	Econlockhatchee River
Sunflower Trail Property	Oct-98	33.8		\$ 44,100.00		Econlockhatchee River
Savage Christmas Creek Preserve	Dec-99	1326	FCT	\$ 3,057,244.00	\$ 2,038,162.00	St. Johns River
Pine Lily Preserve	Jan-00	402.98	FCT	\$ 998,000.00	\$ 998,000.00	Econlockhatchee River
TM-Econ Mitigation Bank Phase IV	Sep-03	1334		\$ 3,750,000.00	\$ -	Econlockhatchee River
Crosby Island Marsh Preserve	Jun-04	272.22	SFWMD	\$ 1,100,000.00	\$ 1,100,000.00	Lake Hart
Gloria Reid Property	May-05	22.49	NOAA	\$ 65,234.00	\$ 111,766.00	Econlockhatchee River
Lake Lucie Conservation Area	May-05	166.22		\$ 4,397,800.00	\$ -	Wekiva River
Nunnally Property	Oct-05	3.5		\$ 19,250.00	\$ -	Econlockhatchee River
Evans Property	Oct-05	15.258		\$ 82,500.00	\$ -	Econlockhatchee River
Sandhill Preserve	Dec-05	83.03		\$ 3,320,000.00	\$ -	Wekiva River
Eagles Roost	May-06	232.01		\$ 8,500,000.00	\$ -	Lake Hart
Neighborhood Lakes	Feb-07	1584	Lake County, SJRWMD, TIIF, CFX	\$ 7,500,000.00	\$ 66,500,000.00	Wekiva River
Charles H. Bronson State Forest	Apr-07	4608	SJRWMD, TIIF	\$ 12,500,000.00	\$ 37,500,000.00	St. Johns River
Johns Lake Conservation Area	Apr-07	138	OC Public Works, TIIF	\$ 5,250,000.00	\$ 1,250,000.00	Johns Lake
Isle of Pine Preserve	Apr-07	464.25		\$ 7,600,000.00		Lake Hart
Shelby Doddridge	Oct-07	87		\$ 1,400,000.00		St. Johns River
Econlockhatchee Sandhills Conservation Area	Feb-09	706.81	SJRWMD	\$ 1,000,000.00	\$ 11,247,900.00	St. Johns River
Shingle Creek Mitigation Area (Convention Center)	Various	558		\$ 15,000,000.00		Shingle Creek
East Orange Acres	Various	6.34		\$ 300.00		Econlockhatchee River
Pine Plantation	Jun-09	40		\$ 1,000,000.00		Wekiva River
Donations						
Ranger Property	Feb-12	80		\$ -	\$ -	Econlockhatchee River
New York Avenue Property	Jul-12	1.5		\$ -	\$ -	Econlockhatchee River
Circle C Ranch	Dec-18	61.78		\$ -	\$ -	Econlockhatchee River
East Orange Acres	Various	27.54		\$ -	\$ -	St. Johns River
Total		23189.91		\$ 93,661,393.00	\$ 146,954,463.00	
Version Date: 3-2-2020						



Memo

To: Orange County Charter Review Commission

From: Clifford B. Shepard

Date: March 9, 2020

Re: Aspirational Funding Directions in the Charter and Amendment 1

I have been asked to answer two questions as a follow-up to our previous memorandum regarding the Green PLACE initiative. In the previous memorandum I explained that any charter amendment that directs the County Commissioners to budget money towards a specific individual item would probably be invalidated for conflicting with Florida statutes. At the following meeting, the Commission instructed me to answer the following two questions:

1. Whether the County may include aspirational, non-binding budget instructions in its Charter?
2. Why Orange County voters cannot amend the Charter to command conservation spending when the Florida voters did that exact thing with Amendment 1 in 2014?

The answer to the first question is yes, an aspirational budget direction in the Charter should be valid. Since the issue with requiring conservation spending in the Charter is restricting the discretion of the Board of County Commissioners, a non-binding amendment that does not restrict the Commissioners would avoid that problem.

The simple answer to the second question is preemption. Under the Florida Constitution, statutes passed by the Florida legislature preempt local government laws, including local government charter provisions. In contrast, the only laws supreme to the Florida Constitution are federal laws, none of which prohibit Amendment 1 or the state's voter initiative procedure.

Aspirational Funding Goals in Charter

As discussed in the previous memo, a county may not include binding budget directions in its charter. This is because charter-based budget and taxing directions have been held to conflict with Chapters 129 and 200, *Florida Statutes*, which vest discretion over the budget and taxing to each county's board of county commissioners.

So long as it's worded carefully, a Charter amendment which sets an aspirational funding goal should be valid. Since the issue is interfering with the Board's discretion over budget and millage, any funding provision which still allows the Board to vote without restriction or directive should be held to be valid. It is also unlikely that anyone would have standing to contest the amendment. Generally, taxpayers do not have standing to contest a government action unless they suffer a special injury, different from the injuries to the rest of the population. *See Solares v. City of Miami*, 166 So. 3d 887 (Fla. 3d DCA 2015). While there is an exception in cases of improper use of taxing and spending powers, a non-binding aspirational amendment which has no legal effect on taxing or spending should not be considered an exercise of such powers.

Authority for 2014's Amendment 1

In contrast with the limitation on charters, the Florida Constitution currently includes an explicit conservation budget directive. Article X, Section 28 of the Constitution, which passed as voter-initiated Amendment 1 in 2014, requires that a certain percentage of excise tax revenues be diverted to a trust fund to be spent only for certain conservation purposes. The authorization for the voter initiative process is set out in Article XI, Section 3 of the Florida Constitution. That Section authorizes Florida voters to initiate an amendment to the Florida Constitution and does not limit which subjects initiatives may address.

Since the Florida Constitution is the supreme law of the state and prevails over any state statute, the only thing preventing a budgetary direction in the Florida Constitution is a properly enacted Federal law. Federal law does not—and likely cannot—prevent a state from placing a budgetary direction in its state constitution. Under the Tenth Amendment to the U.S. Constitution, the states retain all governmental powers not explicitly conferred to the Federal Government. In a recent case, the Supreme Court held that the Federal Government may not directly order state legislatures to act in any particular manner. *See Murphy v. NCAA*, 137 S. Ct. 1461 (2018). Thus, the U.S. Constitution likely prevents the Federal Government from directly ordering state governments how to determine their budgets.