

ORDINANCE NO. 031-1986

AN ORDINANCE ESTABLISHING A LAND ACQUISITION PROGRAM IN MONROE COUNTY, FLORIDA; CREATING AND EMPOWERING A LAND AUTHORITY; ESTABLISHING AND EMPOWERING A LAND AUTHORITY ADVISORY COMMITTEE; REQUIRING AN ANNUAL REPORT AND AN INTERIM AND FINAL PLAN OF ACQUISITION; PROVIDING FOR AN EXECUTIVE DIRECTOR; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Legislature of the State of Florida has enacted CS/CLS HB 1405 (hereinafter "the Land Authority Act") which authorizes counties in which an Area of Critical State Concern is located to create a land authority for the purpose of equitably implementing comprehensive land use plans developed pursuant to the Areas of Critical State Concern program; and

WHEREAS, the Legislature of the State of Florida has appropriated \$1,050,000 to be used by a land authority created by Monroe County for land acquisition during Fiscal Year 1987; and

WHEREAS, the Legislature of the State of Florida has appropriated \$4,950,000 to be used by a land authority created by Monroe County for land acquisition during Fiscal Year 1988; and

WHEREAS, the acquisition of land for preservation, conservation, lot consolidation, the provision of affordable housing and the reduction in the total number of dwelling units to be developed in Monroe County is consistent with and in furtherance of the Monroe County Comprehensive Plan; and

WHEREAS, the Monroe County Comprehensive Plan and Land Development Regulations have been approved and will become effective on or about September 15, 1986; now, therefore,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, that:

Section 1. Title. This Ordinance may be referred to as the Monroe County Comprehensive Plan Land Authority Ordinance.

Section 2. Purpose. This Ordinance is adopted for the purpose of establishing a land acquisition program in Monroe

County as a means of implementing the goals, policies and objectives of the Monroe County Comprehensive Plan, including, but not limited to:

- a. the protection of property rights of small landowners;
- b. the consolidation of substandard lots;
- c. the provision of land for the development of affordable housing;
- d. the preservation of environmentally sensitive lands;
- e. the preservation of the habitats of rare, threatened or endangered species of plants and animals;
- f. the enhancement of the community character of Monroe County; and
- g. the protection of open space, scenic corridors and viewsheds.

Section 3. Land Authority Created. There is hereby created a Monroe County Comprehensive Plan Land Authority (hereinafter "the Land Authority"). The Board of County Commissioners shall be the governing body of the Land Authority. A Chairman and Vice-Chairman shall be elected annually by the members of the Land Authority.

Section 4. Powers of the Land Authority. The Land Authority is hereby empowered:

- a. to sue and be sued, to have a seal, to alter the name at its pleasure and to authorize the use of a facsimile thereof;
- b. to make and execute contracts and all other legal instruments necessary or convenient to carry out the purposes of this Ordinance and the Land Authority;
- c. to undertake and carry out studies and analyses of innovative Comprehensive Plan implementation techniques, including acquisition of fee or less than fee interests in real property;
- d. to undertake and carry out studies and analyses of the developability of land under the Monroe County Comprehensive Plan and Land Development Regulations;
- e. to undertake and carry out studies and analyses of the value of real property;

f. to acquire and dispose of real and personal property or any interest or estate therein, including, but not limited to, fee or less than fee interests such as easements, life estates, development rights, leases, lease back arrangements and options whenever necessary or convenient to carry out the purposes of this Ordinance and the Land Authority Act by any means, including, but not limited to, purchase, sale or exchange;

g. to borrow money by any lawful means including the issuance of bonds for the purposes provided in this Ordinance and in the Land Authority Act and to provide for and secure payment therefor and to provide for the rights of the holders thereof;

h. to purchase bonds of the Land Authority out of any funds or monies available to the Land Authority therefor and to hold, cancel or resell such bonds;

i. to invest any funds held by the Land Authority not required for immediate disbursement in such investments as may be authorized for trust funds under section 215-47 of the Florida Statutes (1985) and in any investment made on behalf of the Land Authority by the State Board of Administration or by another trustee appointed for the purpose;

j. to contract for and to accept in any form whatsoever gifts, grants, loans or other aid and assistance from the United States Government, the State of Florida, the South Florida Regional Planning Council, Monroe County, or any other person, association or corporation;

k. to insure and procure insurance against any loss in connection with any action of the Land Authority including the issuance of bonds and to pay premiums therefore;

l. to make such rules and regulations as are necessary and convenient to carry out the purposes of this Ordinance and the Land Authority pursuant to the provisions of Chapter 120 of the Florida Statutes;

m. to employ personnel, including an Executive Director, as are necessary and convenient to carry out the purposes of this Ordinance and the Land Authority;

n. to engage the services of private consultants on a contract basis as is necessary and convenient to carry out the purposes of this Ordinance;

o. to identify and propose for acquisition parcels of land within Monroe County that are appropriate for acquisition by the State of Florida with funds from the Conservation and Recreation Land Trust Fund (CARL) or any other program of land acquisition undertaken by any governmental agency; and

p. to do any and all things necessary or convenient to carry out the purposes of this Ordinance or the Land Authority.

Section 5. Meetings of the Land Authority.

a. Meetings. A meeting of the governing body of the Land Authority shall be held upon the call of the Chairman or at the request of three members of the Land Authority. All meetings shall be open to the public and notice of such meetings shall be given as required for meetings of the Board of County Commissioners. At least one meeting shall be held quarterly.

b. Quorum and Voting. A majority of the governing body of the Land Authority shall constitute a quorum; provided however that no action shall be taken by an affirmative vote of less than a majority of the total membership of the governing body.

c. Expenses. Members of the Land Authority shall receive no compensation for services, but shall be entitled to necessary expenses including per diem and travel expenses incurred in the discharge of official duties, as provided by law.

Section 6. Monroe County Comprehensive Plan Land Authority Advisory Committee Established. There is hereby created a Monroe County Comprehensive Plan Land Authority Advisory Committee (hereinafter the "Advisory Committee"). The Advisory Committee shall be comprised of five members appointed by the governing body of the Land Authority. The members shall serve for 3 year terms, except that the initial terms shall be staggered so that the terms of no more than two members shall end in any single year. The membership of the Advisory Committee shall include the following:

a. a resident of the City of Key West if the Referendum passes; if not, a representative of the business community in Monroe County;

b. a resident of the Lower Keys as defined by the Monroe County Comprehensive Plan;

c. a resident of the Middle Keys as defined by the Monroe County Comprehensive Plan;

d. a resident of the Upper Keys as defined by the Monroe County Comprehensive Plan;

e. a representative of a not-for-profit corporation or association dedicated to the acquisition of land for conservation and preservation purposes.

A single member of the Advisory Committee may satisfy more than one of the membership requirements. One member of the Advisory Committee shall be elected as Chairman at the first meeting held after January 1 of each year. No member shall serve as Chairman for more than three consecutive terms. Any member who shall miss four consecutive meetings shall be deemed to have forfeited his or her membership and a new member shall be appointed to serve out the balance of the disqualified member's term.

Section 7. Meetings and Actions of the Monroe County Comprehensive Plan Land Authority Advisory Committee.

a. Meetings. Meetings of the Monroe County Comprehensive Plan Land Authority Advisory Committee shall be held at least monthly and at the call of the Chairman or upon the request of three members of the Advisory Committee. All meetings shall be open to the public and notice of such meetings shall be given as required for the meetings of the Board of County Commissioners.

b. Quorum and Voting. A majority of the Advisory Committee shall constitute a quorum and the affirmative vote of a majority of those members present shall be required to take official action.

c. Expenses. Members of the Land Authority Committee shall receive no compensation for services, but shall be entitled to necessary expenses including per diem and travel expenses incurred in the discharge of official duties as provided by law.

Section 8. Powers, Duties and Responsibilities of the Monroe County Comprehensive Plan Land Authority Advisory Committee. The Advisory Committee shall establish, on or before January 15 of each year, an identification and prioritization of land acquisition for the Land Authority. The Advisory Committee shall give priority according to the following:

a. priority shall be given to the acquisition of parcels of land for which a qualified option was given to the Land Authority prior to January 15, 1987 over all parcels of land for which no such option was given. For the purposes of this section, a qualified option shall mean:

(1) a bona fide, irrevocable offer to sell at a fixed price for a period of at least one year;

(2) an offer to sell at no more than 115 percent of the assessed value of the parcel of land according to the most recent tax assessment prior to June 1, 1986; and

(3) an offer containing an express request and authorization to retain priority for the acquisition of the parcel of land by renewing the option for an additional period of at least one year.

b. priority shall be given to parcels of land located within designated Areas of Critical County Concern over all parcels of land not located within an Area of Critical County Concern; and

c. priority shall be given to parcels of land that are located in areas that are served by inadequate or deficient public services.

Section 9. Selection of Parcels of Land for Acquisition. The Monroe County Comprehensive Plan Land Authority shall select lands for acquisition by approving in whole or in part the list of parcels identified and prioritized by the Advisory Committee. The Land Authority shall have the authority to delete identified parcels from the list compiled by the Advisory Committee, but shall have no authority to otherwise change the priority of acquisition or to add parcels of land to the list for acquisition. No property shall be acquired unless:

a. the acquisition is consistent with the Monroe County Comprehensive Plan and Land Development Regulations;

b. the property to be acquired is within an area designated as an Area of Critical State Concern at the time of acquisition; and

c. the property to be acquired has not, within 1 year of and at the time of acquisition, been selected for purchase through another local, regional, state or federal public land acquisition program.

Section 10. Annual Report. The Land Authority shall, within six months after the end of each fiscal year, prepare and submit to the Governor and the presiding officers of each of the Houses of the Legislature a complete and detailed report describing:

a. the activities of the Land Authority during the ended fiscal year including a list of parcels of land or other interests acquired or sold;

b. an accounting of all receipts and expenditures of the Land Authority during the ended fiscal year; and

c. the Land Authority's assets and liabilities at the end of the fiscal year and the status of funds, reserve, special or other.

Section 11. Plan of Acquisition.

a. Within six months after the effective date of this Ordinance, the Land Authority, with the advice of the Advisory Committee, shall prepare a Final Plan of Acquisition. The Final Plan of Acquisition shall set forth the following:

(1) a comprehensive survey of all possible acquisitions, including fee and less than fee acquisitions. The survey shall be prepared in narrative and graphic form at a scale of not less than one inch equals 200 feet;

(2) a decision making format for identifying the priority of acquisitions;

(3) a budget and schedule for land acquisition, including the issuance of bonds;

(4) a program of lot consolidation and resale including:

(a) the location of appropriate lot consolidation projects;

(b) the planning criteria to be employed in reconfiguring the lots; and

(c) a resale program providing for bulk sale, joint venture or individual lot sales;

(5) a program of investment for funds not needed for immediate disbursement.

b. The Land Authority shall conduct a public hearing on the Plan of Acquisition after publication of notice of the hearing at least 15 days prior to the hearing.

c. The Final Plan of Acquisition shall be adopted no later than 6 months after the effective date of this Ordinance.

Section 12. Interim Plan of Acquisition. Until the Final Plan of Acquisition is adopted by the Land Authority, the Land Authority shall not acquire any interest in any parcel of land, except by gift, devise or bequest, unless the parcel of land or interest in real property meets the following minimum requirements:

a. the parcel of land or interest in real property must be offered to the Land Authority at no more than 115 percent of the assessed valuation of the parcel or interest on June 1, 1986; and

b. the parcel of land or interest in real property has been rendered undevelopable by the adoption of the Monroe County Comprehensive Plan, or if the parcel of land or interest in real property is developable under the Monroe County Comprehensive Plan and the parcel or interest is located in an area with inadequate facilities as defined by Section 9-052 of the Monroe County Land Development Regulations, or the parcel or interest is suitable for the development of affordable housing as defined in the Land Development Regulations; and

c. the parcel of land or interest in real property has not been, within one year of and at the time of acquisition, selected for purchase through another local, regional, state or federal public land acquisition program. For the purposes of this section, land selected for acquisition shall not include the

listing of a parcel of land on the CARL list more than one year prior to the acquisition of the parcel or interest; and

d. the acquisition of the parcel of land or interest in real estate shall be consistent with the goals, objectives and policies of the Monroe County Comprehensive Plan.

Section 13. Executive Director. Prior to adopting the Final Plan of Acquisition, the Monroe County Comprehensive Plan Land Authority shall employ an Executive Director to serve as the Chief Executive Officer of the Authority. The Executive Director shall have the duties and responsibilities of a chief executive officer as set forth in the Land Authority Act including the employment of staff and consultants subject only to the authority of the Land Authority. During the interim, the Land Authority may employ a consultant to act as Interim Executive Director and such Interim Executive Director shall have all right, title and authority of the Executive Director.

Section 14. It is the intention of the Board of County Commissioners that in the event a court of competent jurisdiction should determine that any part of this Ordinance is invalid for any reason, the Board intends that the invalid part be severed from the balance of the Ordinance so long as the purposes of the Ordinance to acquire and dispose of real property or interests therein are still achievable.

Section 15. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of any such conflict.

Section 16. This Ordinance shall take effect immediately upon receipt of official notice from the Office of the Secretary of State of the State of Florida that this ordinance has been filed with said office.

BOARD OF COUNTY COMMISSIONERS  
OF MONROE COUNTY, FLORIDA

BY: Wilhelmina Hawley

MAYOR/CHAIRMAN

(SEAL) **DANNY L. KOLHAGE, Clerk**

ATTEST:

Douglas L. Conolly, D.C.  
CLERK

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY.

BY: Susan Lemon

Attorney's Office

ADOPTED: 9-19-86

FILED WITH SECRETARY OF STATE: 9-29-86

EFFECTIVE DATE: 10-1-86