

RESOLUTION NO. 2021-134

A RESOLUTION OF THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA, RE-ESTABLISHING A PROCESS FOR SELECTING AND ACQUIRING ENVIRONMENTALLY SENSITIVE, WATER RESOURCE PROTECTION, FORESTS AND FARMLANDS AND RESOURCE BASED RECREATION LANDS PURSUANT TO THE VOLUSIA FOREVER PROGRAM, BY REPEALING RESOLUTIONS 2004-80, 2008-132, 2009-91; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Volusia County contains many treasured natural resources of significant environmental and resource based recreational importance which should be preserved in perpetuity; and

WHEREAS, Article 2, Section 7(a) of the Florida Constitution states in part 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 protection and conservation of natural resources; and

WHEREAS, it is consistent with the State of Florida Comprehensive Plan, the Strategic Regional Policy Plan adopted by the East Central Florida Regional Planning Council, and the Volusia County Comprehensive Plan to acquire, preserve and use environmentally sensitive, water resource protection, forests and farmlands, and resource based recreation lands located in Volusia County, Florida; and

WHEREAS, on June 2, 2020, the County Council adopted Resolution 2020-80 calling for a referendum on November 3, 2020, submitting to the qualified electors of

Volusia County the question as to whether or not to continue the levy of ad valorem tax and issuance of limited tax obligation bonds for said purpose shall be approved by the electors of the County; and

WHEREAS, the voters of Volusia County ratified the referendum known as Volusia Forever at the General Election held on November 3, 2020; and

WHEREAS, referendum was approved by 75.6% of the voters; and

WHEREAS, the County Council adopted Resolution 2021-11 creating the Volusia Forever Advisory Committee; and

WHEREAS, the County Council desires to establish the Volusia Forever Program as approved by the electorate with procedures and standards to guide its implementation; and

WHEREAS, County Council recognizes the need to provide public access, land management and improvements thereon.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA, IN OPEN MEETING DULY ASSEMBLED IN THE COUNTY COUNCIL CHAMBERS AT THE THOMAS C. KELLY ADMINISTRATION CENTER, 123 WEST INDIANA AVENUE, DELAND, FLORIDA, THIS 7TH DAY OF SEPTEMBER 2021, A.D., AS FOLLOWS:

Section 1. Authority. This Resolution is adopted pursuant to the County's Home Rule Charter, Chapter 125, Florida Statutes, FL. Const. Art. II Section 7(a), Resolution 2020-80, and other applicable provisions of law.

Section 2. Alternatives for Financing Acquisition. The County Manager will investigate and report to the County Council alternative methods for funding acquisitions, including long term financing through the issuance of bonds, notes, and

other authorized indebtedness when it is deemed necessary and appropriate by the County Manager, or his/her designee, that a Group A property will require debt financing.

Section 3. Applicability. These procedures apply to selection and purchase of land under the Volusia Forever Program, and shall not apply to property acquisitions completed by Volusia County for other purposes or using other funding sources.

Section 4. Overall Goals, Values and Policies of the Volusia Forever Land Selection and Acquisition Program: The following goals, values and policies shall apply to the Volusia Forever Program:

a. The goals and values of Volusia Forever are to protect and manage environmentally sensitive lands, areas necessary for water resource protection, forests farmlands and outdoor recreation sites for the purposes of conservation and resource based recreation.

b. Volusia County seeks to maximize the effectiveness of local tax dollars by using them to leverage funds available from federal, state, municipal, private non-profit, and Water Management District (WMD) sources. The County may own land in partnership with other agencies. The County may preferentially elect to designate Volusia Forever funds as matching funds for federal, state, municipal, private non-profit or Water Management District land acquisition projects if the County Council determines that any such project adequately meets the eligibility requirements established in the site ranking criteria or otherwise conforms with the above-stated overall goals of this program. The County need not hold title to such lands, or may hold title in partnership with other agencies, or non-profit organizations.

c. Notwithstanding the policy of the previous paragraph, the County Council may approve the acquisition of a parcel of land and subsequently submit an application to a state, federal, or other land acquisition program for reimbursement of all or a portion of the acquisition cost. In the event the County Council chooses this methodology and it proves to be unsuccessful in obtaining said reimbursement, then the County will be responsible for the full acquisition cost.

d. Acquisition procedures for federal, state, municipal, private non-profit or water management district (WMD) programs may be substituted in part or in whole for the provisions of these County policies and procedures when federal, state, municipal, private non-profit or WMD funds are available and will be utilized for the purchase of land. The procedures outlined herein may be expedited to meet the requirements of the federal, state, municipal, private non-profit or WMD agencies when they are the lead agency in an acquisition or the land is being acquired from one of these entities. The County Council may waive any provision of the County's acquisition procedures when land is being conveyed to the County from another governmental entity.

e. The County Council recognizes that significant conservation goals can be achieved by alternatives to traditional fee simple acquisition. The acquisition of conservation easements, agricultural easements, or other non-fee mechanisms is encouraged by the WMD, state and federal programs and can result in maximizing open space acquisition and rewarding good private stewardship of the lands, while keeping property on the tax rolls. Negotiations for acquisition of a conservation easement shall use appraisals based on the difference between the full fee simple

valuation and the value of the interests remaining with the seller after acquisition, or as otherwise provided by law.

f. The goal of all purchase negotiations shall be to obtain the appropriate interest in land free of encumbrances, conditions, restrictions and reservations at the lowest possible price. However, the County Council has the authority to accept lands with less than marketable title if it is determined to be in the best interests of the County, and that conservation goals will be achieved.

g. The preference for land acquisitions pursuant to this program is to acquire vacant lands. Therefore, acquisition of structures, including single-family dwellings, is discouraged. However, the acquisition of such structures will be considered on a case-by-case basis.

Section 5. Steps of the Land Selection Process. Environmentally sensitive, water resource protection, forests and farmlands and resource based recreation lands to be acquired pursuant to Volusia Forever shall be selected for acquisition according to the following process:

a. Establishment of a Nomination Process. Volusia County shall accept nominations for land acquisitions from any government entity, conservation organization, corporation or individual for any property located in Volusia County. The Volusia Forever Advisory Committee or County staff may also nominate properties for acquisition, to be handled in the same manner as any other proposed property. Nominated properties shall be reviewed in order on a first-come, first-serve basis. The County Council or the Resource Stewardship Division Director may establish deadlines for consideration within the active cycle. Those applications that are not received by

the deadline in the active cycle shall be automatically considered in the next available cycle. The County Council shall periodically inform the public of the open process for accepting nominations for said land acquisitions.

b. Acceptance of Nominations. Each nomination shall be submitted on an application form provided by Volusia County. Information on the form should include the property location (street address and/or section, township, range), a site access agreement, a signed willing seller statement, tax parcel number(s), approximate property size, record title owner, existing designations on the applicable future land use and zoning maps, designation of the property on a USGS topographic map, a generalized description of the property, and reasons the land should be acquired. If requested, Volusia County staff shall provide any needed help in completing this form. Applications should not exceed ten pages of text, maps, surveys, photographs, letters, appraisal summaries, or other documentation that may be provided to the County for consideration at the time of nomination.

c. Initial Review of Proposals. Upon receipt of a complete application form, each property shall be given an initial review by County staff or designees using the most accurate reference materials available, as well as any information submitted with the application form. References used to complete this initial office review shall include but not be limited to existing maps, Geographic Information System (GIS) databases, aerial photographs, and reports. Information that is unavailable at the time of the office review will not detract from nor add to the property's eligibility determination

d. Primary Site Ranking Criteria for Applications. Each property application proposing fee-simple acquisition should meet a minimum of 10 of the 19

Primary Site Ranking Criteria and state a public purpose for the restoration, conservation, or preservation of environmentally sensitive, water resource protection, and resource based recreation lands and water areas and provide public use opportunities. Priority will be given to acquisitions which achieve a combination of conservation goals, including improving water resources and natural groundwater recharge, and providing resource based recreation opportunities. Each property application proposing acquisition of less than fee simple title should meet a minimum of 5 of the 19 Primary Site Ranking Criteria and state a public purpose for the conservation or preservation of environmentally sensitive and water resource protection lands.

e. Site Criteria for Forests and Farmlands Applications. In order to qualify for acquisition, agricultural land must protect the integrity and function of working landscapes, ensure opportunities for viable agricultural activities on working lands threatened by conversion to other uses, and meet at least one of the goals of the Volusia Forever program. Each property application proposing acquisition of less than fee simple title should meet a minimum of 7 of the 12 Site Ranking Criteria for Forests and Farmlands and state a public purpose for the preservation of the agricultural land.

f. It is the intent of the program to achieve maximum impact by partnering with other entities through award or acceptance of grants, joint acquisitions/projects and other cooperative efforts. County staff shall review applications use, depending on application type, the following Primary Site Criteria or Forests and Farmlands Site Criteria for ranking each site. The staff and committee shall review the criteria in relation to standards and procedures of other federal, state, and water management

district programs to propose properties which have the best chance of attracting other grants.

Primary Site Ranking Criteria

PROXIMITY AND CONNECTIVITY

1. Is the property functionally adjacent to existing conservation land (conservation easement or public ownership) or a Volusia Forever eligible property?
2. Will the acquisition maintain the ecological link or habitat corridor between two or more otherwise unconnected existing conservation lands (conservation easement or public ownership)?
3. Is the property within Priority 1, 2 or 3 of the Florida Ecological Greenways Network (i.e. the Florida Wildlife Corridor) or the County's Environmental Core Overlay?

FURTHERANCE OF ACQUISITION EFFORTS

4. Will the acquisition further a project begun under previous or existing governmental land acquisition programs?
5. Based upon preliminary assessment (i.e., partnership experience, property size, location and features), is there a reasonable expectation of matching funds from other sources to assist in the acquisition?

WATER RESOURCES

6. Does the property contain a significant area of medium or high groundwater recharge as determined by St. Johns River Water Management District Upper Floridan Aquifer Groundwater Recharge Map?
7. Does the property contain or have frontage on a waterbody or is it within the 100-year floodplain?
8. Does the property contain springs and/or other unique geological features that enhance environmental resources, protect water quality, enhance water recharge, and/or protect the aquifer?

9. Does the property have the potential to capture beneficial recharge, reduce water consumption within a springshed, or replace degraded freshwater supplies?

ENVIRONMENTALLY SENSITIVE LANDS

10. Is there the potential that acquisition of the property will protect or maintain populations of any Federal or State listed species (including, but not limited to, endangered, threatened or species of special concern) which may typically be expected to occur on the property?
11. Does the property contain viable acreage of one or more scarce or unique communities, as identified by the Florida Natural Areas Inventory, or other significant upland community?
12. Does the property contain coastal or estuarine habitats or areas vulnerable to sea level rise by 2040?
13. Does the property contain high functioning or potentially high functioning wetland ecosystems?

PROVIDE RESOURCE BASED RECREATIONS LANDS

14. Does the property offer the potential for the establishment or enhancement of resource based public use opportunities, including Greenways, Blueways and trails?
15. Does the property have public right of way (roads or trails) accessing or abutting?
16. Does the property contain an archeological site or historical resources?

MANAGEMENT

17. Is the size, access, and location of the property appropriate for cost effective management or will it be managed by others?
18. Is there limited (<5% by ocular view) Florida Exotic Pest Council Category 1 invasive exotic plant coverage observed?

19. Is the percentage of uplands, water bodies, or wetlands requiring restoration minimal?

Forests and Farmlands Site Ranking Criteria

PROXIMITY AND CONNECTIVITY

1. Is the property within 1 mile of other protected land whose purpose is to protect agricultural use or conservation?
2. Is the parcel within 1 mile of other agricultural operations and agricultural infrastructure?
3. Will the acquisition maintain the ecological link or habitat corridor between two or more otherwise unconnected existing conservation lands (conservation easement or public ownership)?

FURTHERANCE OF ACQUISITION EFFORTS

1. Will the acquisition further a project begun under previous or existing governmental land acquisition program?
2. Based upon preliminary assessment (i.e., partnership experience, property size, location and features), is there a reasonable expectation of matching funds from other sources to assist in the acquisition of the agricultural easement?

ENVIRONMENTALLY SENSITIVE LANDS

1. Will the easement area protect native habitat?
2. Does the property have known populations of State or Federal threatened (T) and endangered (E) animal species or State species of concern, or the parcel is located within Federal T & E designated Critical Habitat for a T& E species.

PROVIDE FOR PRESERVATION OF FARMLANDS

1. Will the acquisition protect prime, unique, and important soils as defined by USDA/NRCS?
2. Will greater than 50% percent of cropland, pastureland, grassland, and/or rangeland in the parcel be protected?
3. Does the parcel contain historical or archaeological resources that will be protected by the easement area?

MANAGEMENT

1. Does a farm or ranch succession plan or similar plan exist to address farm viability for future generations?
2. Is the farm currently enrolled in a Best Management Practices program?

f. Initial Property Eligibility Evaluation and Nominator Notification by County Staff. When the review is complete, a draft property evaluation report utilizing the Site Ranking Criteria shall be provided to the person nominating the property and the property owner(s). The property owner(s) and nominator shall be given an opportunity to provide additional written or verbal information regarding the draft property eligibility evaluation within a specified timeframe. County staff shall consider all additional information submitted in a timely manner prior to submitting the draft property evaluations to the Volusia Forever Advisory Committee.

g. Eligibility Review of Properties by the Volusia Forever Advisory Committee. County staff shall provide an eligibility evaluation report on nominated properties at any open, public meeting of the Volusia Forever Advisory Committee. Prior to the presentation before the Committee, the staff shall make a good faith effort to provide notice of the Volusia Forever Advisory Committee meeting date to the property owner(s) and the person(s) or organization nominating the property. Each shall be notified of the opportunity to speak and present additional evidence before the Volusia Forever Advisory Committee. At this open, public meeting, the Committee shall sort properties into two categories for the

purpose of establishing an eligibility pool: (1) properties eligible for further consideration for public acquisition by Volusia County employing the Site Ranking Criteria; and (2) properties not eligible for further consideration for public acquisition by Volusia County at the present time. The decision to add a property to the eligibility pool shall be made by a vote of at least five members of the Volusia Forever Advisory Committee after a finding that the property substantially furthers the goals of Volusia Forever as set forth in the Site Ranking Criteria. The Volusia Forever Advisory Committee shall determine that a property is not eligible for further consideration when it finds that it does not substantially further the goals of the program as set forth in the Site Ranking Criteria.

h. Project Boundaries. Once a property is determined to be part of the eligibility pool, the Volusia Forever Advisory Committee may recommend, and the County Council may adopt, a project boundary. If this recommended boundary includes adjacent land parcels, the owners of these lands will be informed in writing by County staff, and will be provided with an opportunity to comment on their willingness to be included. Project boundaries should conform to federal, state, and water management district boundaries. If a project includes multiple properties with different owners, the Volusia Forever Advisory Committee may identify and recommend to the County Council those keystone properties that are necessary to acquire to justify obtaining other adjacent parcels. In general, no property should be advanced through the acquisition process unless the project's keystone properties are advancing as well.

i. Evaluation and Ranking by the Volusia Forever Advisory Committee and the County Council.

(1) The property owner(s) shall be notified in writing of the eligibility pool determination of the Volusia Forever Advisory Committee.

(2) Following a site inspection, if necessary, and public hearing, the Volusia Forever Advisory Committee shall, no less than twice each year, review all properties within the eligibility pool and shall prioritize all properties within each of the following categories:

(a) Group A. Those properties proposed for approval that will receive the highest priority for acquisition. Each property within Group A shall significantly further the goals of the Volusia Forever Program based on the Site Ranking Criteria for the property. Each property within Group A should be eligible for matching funds from other sources. Completion of acquisition of properties within an approved project boundary of the Florida Forever programs shall be given high priority.

(b) Group B. Those properties proposed for approval that are considered by the Volusia Forever Advisory Committee to be important but not the highest priority based on the Site Ranking Criteria, Project Evaluation Report, or availability of matching funds.

(3) Group A properties will be forwarded to the County Council for authorization to proceed with the acquisition process. The County Council may move a property from one group to another, but may not add a property to the ranking group that has not been determined as eligible. The County Council may also direct staff to pursue matching funds from outside agencies or private parties for any property listed in the ranking group. Because different outside agency funding sources are suited to

different types of projects, pursuit of matching funds need not be made in priority order.

(4) Any property may be retained in the ranking group or removed at the request of the property owner. If the property is retained in the Group B, reconsideration for advancement to the Group A may be requested at any time with receipt of updated information that may affect the site ranking or viability of sale.

(5) Based on a recommendation of the Volusia Forever Advisory Committee, a property may be removed from the Group B Category by the County Council upon the expiration of at least two(2) ranking cycles.

Section 6. Access, Management and Improvements. To ensure that there is adequate funding for continued public access, land management and improvements thereon of lands purchased under Volusia Forever, as well as the 1986 referendum and other lands purchased for conservation purposes, there shall be set aside on an annual basis an amount equal to fifteen (15) percent of all property taxes levied under this program, which shall be transferred to a separate fund for the purpose of land management. In any case whereby the property tax levied for this program are split for debt service and operating tax rates, the fifteen (15) percent calculation shall apply to both levies, however, the operating fund shall pay the entire amount. In addition, all receipts of the county, from any lease or other miscellaneous revenues derived from lands acquired by the program, shall be deposited in the same separate land management fund. The disposition of the balances of the prior levy of the Volusia Forever program shall be in accordance with the fiscal year 2022 budget adopted by the county council.

Section 7. Final Steps of the Acquisition Process by County Staff, Contracted Outside Agencies, and the Seller for Properties on the Group A List. The final steps in the acquisition process are as follows:

a. Group A List Constitutes the Active Acquisition List. The Group A list will be maintained and regularly modified no less than twice a year by the County Council based on a combination of factors including the final Site Ranking Criteria, negotiated sale price relative to appraised value, availability of matching funds, urgency of purchase based on imminent threat of loss, or other factors deemed significant by the decision-making bodies.

(1) Inclusion on the Group A list will authorize the final steps listed in this section for closing on the properties within each project, but does not guarantee site acquisition.

(2) These final acquisition steps may be completed concurrently to the greatest extent possible, to expedite the acquisition process.

(3) The County may elect to contract with a qualified not-for-profit agency, government entity or other professionals to oversee and complete property appraisals, surveys, environmental audits, title insurance, negotiations and other related acquisition activities.

(4) If the seller chooses to be represented by a licensed realtor or other registered agent, all realtors' and agents' costs and commissions shall come from the seller's proceeds.

b. Final Steps for the Acquisition of Property on the Group A List. The Group A ranked properties shall be pursued for acquisition by completing the following final steps:

(1) A Contract for Acquisition shall be signed using a form acceptable to the County. The County shall not be under any obligation to exercise any option under the contract, and the contract is not required to contain either a minimum or maximum consideration to the Seller. The contract may establish a fixed price for the proposed transaction, or may establish a price per acre if a reliable survey is not available. No action on the part of County staff or any agency contracted to represent the County shall be interpreted to bind the County. Only the County Council may exercise a contract by formal action of a majority vote during a duly advertised public meeting.

(2) A Boundary Survey shall be completed by a Professional Land Surveyor registered in Florida. The County may solicit professional surveying services to expedite real property acquisitions in a consistent and cost efficient manner. All survey work shall be reviewed and approved by appropriate County staff.

(3) A title and encumbrance report shall be completed to clarify any issues related to the property title. All title work, including earliest record searches, title binders, title insurance policies, ownership reports, encumbrance reports and updated title reports shall be performed in accordance with adopted industry standards. The County may solicit professional title services to expedite real property acquisitions in a consistent and cost efficient manner.

(4) Appraisal(s) shall be completed. Purchases of real property having a value of \$100,000 or less may be appraised using current estimated just market value tax appraisals on file with the Volusia County Property Appraiser's Office. All purchases of real property having a value of between \$100,000 and \$500,000 shall be supported by one independent appraisal report provided by a state certified real estate appraiser. All purchases of real property having a value greater than \$500,000 shall be supported by two current, independent appraisal reports prepared by different state certified real estate appraisers within one (1) year of the property purchase. If the agreed purchase price exceeds the average appraised price of the two appraisals, County Council may do so only upon the concurrence of five members.

(5) Negotiations shall be formally initiated following receipt of the required number of appraisal reports approved by appropriate County staff. Every appraisal, offer or counteroffer for purchase of real property for a public purpose must be in writing. When operating under a Joint Acquisition Agreement with another agency, the County may disclose appraisal information to, or use an appraisal provided by a cooperating agency, pursuant to the formal acquisition agreement. If the County is disclosing the appraisal information, the agreement shall identify the individual who will have custody of the appraisal report, and individual(s) within the cooperating agency who have access to the appraisal report. Written consent of the County will be required prior to the cooperating agency disclosing appraisal information to any other person. When the county is negotiating to acquire an option to purchase lands and a Joint Acquisition Agreement has not been executed, the County may disclose its appraisal to the landowner for the purpose of negotiation of the option.

(6) Phase I and, if necessary, Phase II Environmental Audit(s) prepared in accordance with the American Society of Testing and Materials Practice E1527 as amended shall be performed by a Professional Engineer or Professional Geologist registered in the State of Florida. However, County staff may perform a Phase I audit. Unfavorable or inconclusive environmental audit results, or any other available information that indicates potential onsite contamination, shall be sufficient cause to terminate the acquisition process or re-open property negotiations. Property shall only be approved for purchase when it is determined by County staff to be substantially clear of litter, debris, and contamination.

(7) Deed or Easement shall be approved by the County Attorney's office. Volusia County may share title with any other governmental organization and may hold less than fee title for conservation easements on private land. Volusia County may accept a special warranty deed or quit claim deed if reasonable assurance is provided that the desired conservation values of the property are being conveyed to the County in perpetuity as a result of the agreed-upon transaction. All exceptions, reservations, encroachments, or other adverse conditions that are disclosed in the course of the acquisition process shall be individually evaluated by the County in writing to review possible adverse effects on the objectives of the acquisition. Acquisitions may be completed subject to mineral interests or reservations.

(8) County Council's final action on the acquisition of property shall occur as a time certain matter at a regular Council meeting or a special meeting called for that purpose. Information provided at the Public Hearing shall include the parcel description and boundary map, the title report and environmental audit, the contract

purchase and sale agreement, and the final closing costs. The property shall be automatically removed from the Group A Category upon acquisition.

(9) Real Estate Closing shall be completed in accordance with standard practice, including recording with the Clerk of the Court.

(10) The County Manager, or his/her designee, may recommend that a property not be considered for further acquisition when: (1) The property owner is unwilling to negotiate for sale or easement; or (2) There is no likelihood of matching funds from other sources to acquire the property.

Section 8. Small Lot Acquisition Program. Notwithstanding anything to the contrary contained in this Resolution, there is established a Small Lot Acquisition Program, utilizing a set percentage of the annual Volusia Forever tax receipts and/or an annual appropriated amount of the Volusia Forever tax receipts. This program will supplement the County's efforts in acquiring environmentally sensitive lands in antiquated platted subdivisions. The lots within these subdivisions are small in size, have no or limited physical access and/or infrastructure. The goal of the program is to assemble enough contiguous small lots into ecologically significant tracts. As these lots have low assessed values the usual Volusia Forever acquisition procedures are modified. Specifically, it is a willing seller only program, no survey or appraisal will be performed, there will be a limited title search, and an affidavit will be obtained from the property owner(s) stating there are no known pollutants on the property, which will be substituted for a Phase I Environmental Assessment. The Just/Market Value of the parcel as published by the Volusia County property appraiser will form the basis of any offer to purchase said property.

Section 9. Audit. An annual audit will be conducted to provide full public disclosure.

Section 10. Severability. In the event that any word, phrase, clause, sentence or paragraph hereof shall be held invalid by any court of competent jurisdiction, such holding shall not affect any other word, clause, phrase, sentence or paragraph hereof.

Section 11. Repeal. Resolutions 2004-80, 2008-132 and 2009-91 are hereby repealed.

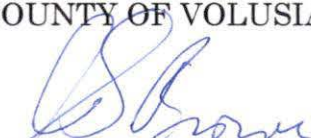
Section 12. Effective Date. This Resolution shall become effective immediately upon its adoption.

DONE AND ORDERED IN OPEN MEETING.

ATTEST:



George Recktenwald
County Manager

COUNTY COUNCIL
COUNTY OF VOLUSIA, FLORIDA


Jeffrey S. Brower
County Chair

