

ORDINANCE 21 -2008

AN ORDINANCE AMENDING CHAPTER 16.54 OF THE SAN JUAN COUNTY CODE REGARDING THE SAN JUAN COUNTY LAND BANK

WHEREAS, San Juan County adopted a Home Rule Charter on November 8, 2005; and

WHEREAS, the San Juan County Council desires to assure the County Code is consistent with the Charter for San Juan County; and

WHEREAS, Chapter 16.54 of the San Juan County Code should be revised in order to be consistent with the county charter; and

WHEREAS, the Land Bank differs from other county departments, in that the expenditure and acquisition plan developed by the Land Bank Commission requires ratification by the County Council; and

WHEREAS, the acquisition plan developed by the entire Land Bank Commission considers each of the major islands and their associated islands independently; and

WHEREAS, this method of planning for acquisitions does not result in competition between the islands for Conservation Funds, but rather, use of the funds to protect land throughout San Juan County; and

WHEREAS, the Land Bank Commission requires both members who are able to share information about potential acquisitions on each island with the other members, as well as members with varying kinds of expertise in order to make wise use the of Conservation Fund; and

WHEREAS, certain changes have been recommended by the Prosecuting Attorney and others to assure that this ordinance is consistent with the Home Rule Charter; and

WHEREAS, the County Council finds that this ordinance satisfies the health, safety and public welfare of the people of San Juan County; and

WHEREAS, the County conducted a duly advertised public hearing on April 8, 2008, and has received public testimony; and

NOW, THEREFORE, BE IT ORDAINED by the County Council of San Juan County, State of Washington as follows:

Sec. 1. San Juan County code 16.54.020, Ord. 6-1999 § 1; and Ord. 142-1990 § II are each amended to read as follows:

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16.54.020 Definitions.

For the purpose of this chapter the words set out in this section shall have the following meanings:

"Acquisition" means the purchase or acceptance of a gift from a willing seller or donor of fee or less than fee interests in real property, without the exercise of eminent domain. These interests include, but are not limited to, options, rights of first refusal, conservation easements, leases, mineral rights, water rights and development rights. Nothing contained in this definition shall be construed to prevent the LBC and the property owner from jointly agreeing to seek judicial determination of property value.

"Conservation area" means land and water that have environmental, agricultural, aesthetic, cultural, scientific, historic, scenic or low-intensity recreational value for existing and future generations, and includes, but is not limited to, open spaces, wetlands, marshes, aquifer recharge areas, shoreline areas, natural areas and other lands and waters that are important to preserve flora and fauna.

"Conservation area real estate excise tax (REET)" means that tax authorized by the voters of the County (pursuant to the enablement and requirements of Chapters 82.45 and 82.46 RCW) as now enacted or subsequently amended:

1. Levied on each sale of real property in the County beginning December 6, 1990;
2. Paid by the purchaser;
3. At a rate of one percent of the selling price;
4. For a period of 24 years after December 6, 1990 and expiring with transactions after December 5, 2014;
5. Proceeds to be used exclusively for the acquisition and maintenance of real property interests in conservation areas as defined in this section.

"Director" means the lead staff person ~~hired by the board of County commissioners/land bank commission to~~ who provides professional/technical support services to the land bank commission.

"Disposal" means the sale or trade or offering for sale or trade of real property interests acquired by the land bank commission (LBC) upon a finding by the ~~board of County Council commissioners~~, after recommendation by the LBC, that the interest acquired no longer achieves or is no longer necessary to achieve the rationale/public purpose that justified its acquisition.

"Land Bank Commission" (LBC) means the advisory body which assists the Land Bank Director in the management of the Land Bank and advises the County Administrator and County Council in the selection of the Land Bank Director.

Sec. 2. San Juan County code 16.54.030, and Ord. 142-1990 § III(1) are each amended to read as follows:

16.54.030 Land bank commission – Composition.

~~Within 60 days of voter authorization of a conservation area real estate excise tax pursuant to Chapter 82.46 RCW, there shall be established a land bank commission (LBC), a citizen board appointed by the board of County Council commissioners. The LBC shall be composed of seven members; one appointed each from San Juan Island, Orcas Island and Lopez Island. The remaining four members will be each County commissioner district (three), and four appointed at large by the board of County Council and will bring a variety of complementary skills to the LBC in order that the Conservation Fund can be managed wisely for the benefit of all of San Juan County commissioners.~~

~~A. Initial appointment shall be as follows: three members appointed for four year terms; two members appointed to three year terms and two members appointed for two year terms.~~

~~B. A. Upon the expiration of initial appointments, successive appointments shall each be for a period of four years. Terms shall be staggered with three members term expiring one year, two members terms expiring the next year and two members terms expiring the third year. LBC members may be reappointed upon a majority vote of the board of County Council commissioners.~~

~~E. B. Eligibility for appointment to the LBC shall be open to residents of both the incorporated and unincorporated areas of the County. In appointing LBC members, the board of County Council commissioners shall strive to achieve a diversified and objective membership.~~

~~D. C. In the event an LBC member is absent from three consecutive meetings without prior approval from the LBC chairman, the board of County Council commissioners may remove such member and appoint a replacement to fulfill that member's unexpired term. (Ord. 142-1990 § III (1))~~

NEW SECTION. Sec. 3. A new section is added to Chapter 16.54 of the San Juan County code to read as follows:

Director appointment and termination.

A. After receiving recommendations from the Land Bank Commission, the County Administrator shall appoint a director of the Land Bank. This appointment shall be confirmed by the action of the County Council, which shall take place within 30 days.

B. It is the responsibility of the director to hire Land Bank staff in accordance with the personnel policies and procedures of the county and any other applicable laws and regulations.

C. Confirmation by the County Council of a decision by the County Administrator to terminate the director shall occur before the termination takes place.

Sec. 4. San Juan County code 16.54.040, and Ord. 142-1990 § III(2) are each amended to read as follows:

16.54.040 Land bank commission – Powers and duties.

The land bank commission shall have the following powers and duties to be performed in cooperation with, and assistance from, the Land Bank staff:

- A. To recommend to the ~~board of County Commissioners~~ County Council the acquisition and/or disposal of fee and/or less-than-fee interests in conservation areas as defined in this chapter;
- B. To develop stewardship and management plans for each acquired interest not inconsistent with or detrimental to the purpose/rationale which justified its acquisition;
- C. To supervise the management of the property interests acquired;
- D. To develop annual reports of LBC activity;
- E. To recommend to the ~~board of County Commissioners~~ County Council a revenue allocation formula for the long-term use of LBC funds;
- F. To recommend to the ~~board of County Commissioners~~ County Council action on proposed gifts of real property, personal property or cash to be utilized for the purposes stated in this chapter;
- G. To ~~conduct~~ obtain real property appraisals;
- H. To negotiate real property purchases or trades as specified in the LBC expenditure and acquisition plan;
- I. ~~To recommend to the board of County commissioners contracts for services;~~
- J. I. To recommend to the ~~board of County Commissioners~~ County Council the lease of acquired real property for uses not inconsistent with or detrimental to the purpose/rationale which justified the acquisition. (Ord. 142-1990 § III (2))

Sec. 5. San Juan County code 16.54.050, and Ord. 142-1990 § III(3) are each amended to read as follows:

16.54.050 Land bank commission – Organization.

~~The board of County commissioners shall appoint the chair of the LBC to serve for the first two years of operation (1991 to 1992). The LBC shall elect the vice chair to serve for the same period. Beginning in 1993, and each year thereafter, the LBC shall elect a chair and vice-chair. The chair and vice-chair may be re-elected upon expiration of their one-year term. In conducting its business the LBC shall follow the Uniform Business Rules, including the Rules of Procedure, unless other rules have been duly adopted by the County Council. Within 90 days of their first~~

~~meeting, the LBC shall adopt such rules and procedures as they deem necessary to accomplish their function. (Ord. 142-1990 § III (3))~~

Sec. 6. San Juan County code 16.54.060, and Ord. 142-1990 § III(4) are each amended to read as follows:

16.54.060 Land bank commission – Administration Staff.

~~The LBC shall recommend to the board of County commissioners candidates for the position of director. The board of County commissioners is responsible for hiring the director. The director shall serve as the primary staff to the commission and have the functions/duties described in this chapter. Revenues required to support the direct and indirect expenses of the executive director and additional staff as may be deemed necessary shall be derived solely from the conservation area fund. Nothing in this section would preclude the County from contracting with an individual or organization to provide any or all of the administrative functions of the LBC. (Ord. 142-1990 § III (4))~~

Sec. 7. San Juan County code 16.54.070, and Ord. 142-1990 § IV are each amended to read as follows:

16.54.070 Conservation area fund.

A. There shall be established in the County treasury a proprietary fund titled the "San Juan County conservation area fund." Deposited into this fund shall be all revenues that the land bank commission is authorized to receive. Interest earned from investments of this fund and proceeds from the sale of surplus lands shall remain with the fund. Examples of revenues anticipated are:

1. Real estate excise tax proceeds;
2. County conservation futures levy;
3. Donations;
4. Bond proceeds;
5. User fees;
6. Transfers from other governmental units;
7. Grants;
8. Lease fees.

B. Expenditures from the conservation area fund shall be made in accordance with the legally adopted County budget. The annual budget, submitted for public hearing, shall be based upon

recommendations of the LBC and final action of the ~~board of County Council~~ Council ~~commissioners~~.
Authorized expenditures for conservation area fund moneys shall be:

1. The acquisition of the types of real property interest specified in this chapter, including but not limited to costs for appraisals, site assessments and legal fees;
2. The stewardship, care, restoration and maintenance of acquired real property interests. A reserve within the conservation area fund shall be established within one year to provide funding for the maintenance of acquired real property interest in perpetuity. It is the objective of this reserve that the interest earned ~~from it~~ will fund all care and maintenance expenses upon the expiration of the REET;
3. Fund Administration. Annual administration costs of the fund shall be held to the minimum required to administer efficiently and properly the land bank but shall not exceed 10 percent of revenues received, exclusive of bond proceeds;
4. Repayment of bonds (principal and interest) issued by the County, the proceeds of which have been deposited in the conservation area fund;
5. Such other expenditures as deemed appropriate by the ~~board of County Council~~ Council ~~commissioners~~ that further the goals and objectives of the land bank.

C. It is the intent of the County, on behalf of the land bank, to issue intermediate term bonds in order to provide revenue to take advantage of immediate conservation opportunities. ~~in a time of a rapidly appreciating real estate market and inflation. (Ord. 142-1990 § IV)~~

Sec. 8. San Juan County code 16.54.080, and Ord. 142-1990 § V are each amended to read as follows:

16.54.080 Expenditure and acquisition plan.

A. An open space and conservation plan for the County ~~is~~ will be adopted by the former Board of County Commissioners as an element of the County Comprehensive Plan. The open space plan ~~will include~~ an inventory, classification criteria and prioritized ranking of open space landscape units (i.e., natural areas, water resources, visual resources, administrative resources, agricultural, recreational and cultural resources). The open space plan ~~will~~ also define the parameters of a variety of methods for the acquisition of fee or less-than-fee interests in conservation areas as defined in this chapter (i.e., direct fee simple purchase, life estates, conservation easements, transfer of development rights, etc.).

B. Based on the criteria, rankings and "acquisition tools" as specified in the adopted open space and conservation plan, the LBC will prepare an annual acquisition program for the coming budget year specifying:

1. Recommended parcels for acquisition (including rationale for recommendation);

2. The nature of the interest(s) to be acquired;
3. The expenditure required to acquire (including administrative and overhead estimates);
4. An estimate of the annual cost of ownership of the interest acquired (i.e., maintenance, improvements, restoration, etc.); and
5. A proposed management plan.

C. The annual expenditure and acquisition plan shall be adopted by the LBC and shall be subject to ratification by the ~~board of County Council~~ Council ~~commissioners~~ during the adoption of the annual budget for the County. The plan may provide for contingencies and may be amended following a public hearing by the LBC and subsequent ratification by the ~~board of County Council~~ Council ~~commissioners~~.

D. Prior to any action by the LBC to adopt an annual expenditure and acquisition plan, the LBC shall hold at least one public hearing. A draft plan shall be available for public review 10 days prior to the date of any LBC public hearing.

E. The LBC may adopt their recommended annual acquisition plan by a majority vote at their next regular LBC meeting following the public hearing.

F. Notices of LBC meetings or hearings on the annual draft or final acquisition plan shall be published in the legal newspaper of the County at least 10 days prior to the meeting or hearing. (Ord. 142-1990 § V)

Sec. 9. San Juan County code 16.54.110, and Ord. 142-1990 § VIII are each amended to read as follows:

16.54.110 Council ~~Board~~ authority.

~~A.~~ The following actions of the LBC shall require ratification by the ~~board of County Council~~ Council ~~commissioners~~:

1. The annual acquisition and expenditure plan;
- ~~2. The contracting for services;~~
- ~~2~~3. The receipt of gifts of real property, personal property or cash.

~~B~~3. If the ~~board of County Council~~ Council ~~commissioners~~ elects not to ratify the annual acquisition and expenditure plan, it must reject the plan in its entirety and remand it back to the LBC with specific recommendations for reconsideration. The ~~board of County Council~~ Council ~~commissioners~~ shall have no authority to amend the plan. (Ord. 142-1990 § VIII)

