

Chapter 2.120
SAN JUAN COUNTY LAND BANK

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2.120.010 Purpose.

A. The purpose of the San Juan County citizens conservation land bank is to preserve in perpetuity areas in the County that have environmental, agricultural, aesthetic, cultural, scientific, historic, scenic or low-intensity recreational value, and to protect existing and future sources of potable water.

B. In attempting to achieve this purpose, the County shall solicit the cooperation of federal and state agencies, other local governments, local parks boards, parks and recreation districts, nonprofit organizations concerned with conservation and similar agencies and organizations.

C. In order to maintain private ownership and maximize the use of available funds, the land bank commission (LBC) shall first consider conservation easements or other nonfee interests as the method to achieve the purpose(s) of the proposed acquisition.

D. The land bank commission shall seek to balance their acquisition recommendations of real

property interests with the geographical locations from which the land bank's tax revenues are generated. (Ord. 21-2008 § 10; Ord. 142-1990 § I. Formerly 16.54.010)

2.120.020 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 36 years after December 6, 1990, and expiring with transactions after December 5, 2026;
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 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 County council, 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. (Ord. 3-2012 § 1; Ord. 21-2008 §§ 1, 10; Ord. 6-1999 § 1; Ord. 142-1990 § II. Formerly 16.54.020)

2.120.030 Land bank commission – Composition.

There shall be established a land bank commission (LBC), a citizen board appointed by the County council. The LBC shall be composed of seven members: one each from San Juan Island, Orcas Island and Lopez Island. The remaining four members will be appointed at large by the 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.

A. Appointments shall each be for a period of four years. Terms shall be staggered with three members' terms 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 County council.

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 County council shall strive to achieve a diversified and objective membership.

C. In the event an LBC member is absent from three consecutive meetings without prior approval from the LBC chairman, the County council may remove such member and appoint a replacement to fulfill that member's unexpired term. (Ord. 21-2008 §§ 2, 10; Ord. 142-1990 § III(1). Formerly 16.54.030)

2.120.040 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. (Ord. 21-2008 §§ 3, 10)

2.120.050 Land bank commission – Powers and duties.

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

A. To recommend to the 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 County council a revenue allocation formula for the long-term use of LBC funds;
- F. To recommend to the 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 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 County council the lease of acquired real property for uses not inconsistent with or detrimental to the purpose/rationale which justified the acquisition. (Ord. 21-2008 §§ 4, 10; Ord. 142-1990 § III(2). Formerly 16.54.040)

2.120.060 Land bank commission – Organization.

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. (Ord. 21-2008 §§ 5, 10; Ord. 142-1990 § III(3). Formerly 16.54.050)

2.120.070 Land bank commission – Administration.

Revenues required to support the direct and indirect expenses of the 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. 21-2008 §§ 6, 10; Ord. 142-1990 § III(4). Formerly 16.54.060)

2.120.080 Land bank commission – Earnest money agreements.

The County council finds that it is in the best interests of the citizens of the County to allow the land bank to enter into earnest money agreements for properties being considered for acquisition and:

- A. The director of the San Juan County land bank is authorized to enter into earnest money agreements on behalf of the land bank;
- B. Any consideration paid by the land bank under any such agreement shall be approved by the land bank commission and shall not exceed \$25,000, unless the County council specifically approves payment of a sum in excess of this amount;

C. Any such agreement must state that purchase of the subject real property interest is contingent upon (1) approval of the purchase by the land bank commission after public hearing and (2) approval of the County council after public hearing; and

D. Any such agreement must provide that the earnest money paid is fully refundable on failure of the contingency required under subsection (C) of this section. (Ord. 21-2008 § 10; Ord. 5-2008 § 7; Res. 191-1992. Formerly 16.54.065)

2.120.090 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 County council. Authorized expenditures for conservation area fund monies 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 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 County council 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. (Ord. 21-2008 §§ 7, 10; Ord. 142-1990 § IV. Formerly 16.54.070)

2.120.100 Expenditure and acquisition plan.

A. An open space and conservation plan for the County is an element of the County Comprehensive Plan. The open space plan includes 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 also defines 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 County council 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 County council.

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. 21-2008 §§ 8, 10; Ord. 142-1990 § V. Formerly 16.54.080)

2.120.110 Land bank commission operations report.

As part of the LBC's preparation of its annual acquisition and expenditure plan, the LBC shall prepare an annual operations report summarizing the last year's activities, including at a minimum:

A. Inventory or the status of the particular parcels/property interests approved for acquisition or disposal in the prior year's annual acquisition and expenditure plan;

B. LBC recommendations regarding changes in the acquisition or disposal objectives (parcels/property interests) contained in the prior year's annual expenditure plan; and

C. Any recommendations by the LBC for amendments to the adopted County open space plan. (Ord. 21-2008 § 10; Ord. 142-1990 § VI. Formerly 16.54.090)

2.120.120 Stewardship and management plan.

Commencing in the first year after the LBC acquires any real property interests pursuant to its acquisition and expenditure plan, the LBC shall prepare a stewardship and management plan for each discrete parcel/property interest which summarizes the annual, five-year and 10-year maintenance/improvement program in both substantive and financial terms. Stewardship and management plans shall be prepared under and subject to the same terms and conditions as those applying to the preparation of the annual expenditure plan. (Ord. 21-2008 § 10; Ord. 142-1990 § VII. Formerly 16.54.100)

2.120.130 Council authority.

The following actions of the LBC shall require ratification by the County council:

A. The annual acquisition and expenditure plan;

B. The receipt of gifts of real property, personal property or cash.

C. If the County council 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 County council shall have no authority to amend the plan. (Ord. 21-2008 §§ 9, 10; Ord. 142-1990 § VIII. Formerly 16.54.110)