



2020 ORANGE COUNTY CHARTER REVIEW COMMISSION (CRC)

April 22, 2020

Committee Recommendation

**Permanent Funding of Green PLACE
Committee**

Committee Members:

Camille Evans, Chair
Angela Melvin
Soraya Smith
Lee Steinhauer
Eugene Stoccardo

Summary of Recommendation

On January 9, 2020, Member Eugene Stoccardo proposed a charter amendment establishing permanent funding for the annual purchase of environmentally sensitive lands in the amount of \$7,500,000.00 as an evaluation topic for the 2020 Orange County Charter Review Commission (the "CRC"). On February 5, 2020, the CRC voted to establish Permanent Funding for Green PLACE as an evaluation topic and established the subcommittee to evaluate the topic. Beginning on February 17, 2020, the Permanent Funding for Green PLACE Committee (the "Committee") held three public meetings to hear public input and consider the proposal. The Committee reviewed the proposed ballot title, summary and text amendment offered by Member Stoccardo and memorandums from the General Counsel regarding the legality of the core functions of the proposal. The Committee also heard from invited guests, including the Orange County Manager of the Office of Management and Budget, Kurt Petersen, regarding the 10 year history of expenditures from Orange County's Public Service Tax Bonds Fund, and Orange County's Environmental Program Supervisor, Beth Jackson, who provided the history of the County's environmentally sensitive land acquisitions since the mid-1990's.

After careful consideration of the information presented, the Committee voted 4-0, with one member absent, to recommend to the full CRC that no amendment to the Orange County Charter be made with respect to the Committee's evaluation topic. However, the Committee also recommends that the final CRC report forwarded to the Orange County Board of County Commissioners (the "BCC") recommends that the County actively use the

mechanisms and funding currently in place for the purchase of environmentally sensitive lands and that the County re-establish the ad-hoc committee for Green PLACE to encourage community input on identifying lands and acquisition strategies.

Reasons for Recommendation

1. Charter Amendment Mandating Budget Expenditures Preempted by State Law.

While the goal of spending \$7,500,000.00 per year for the acquisition of environmentally sensitive lands may be laudable, a mandatory charter amendment requiring the County to annually budget and spend said funds for the acquisition of environmentally sensitive lands is almost certainly preempted by Florida law, which prohibits local laws from interfering with county commissioners' discretion over the budget and millage rates. This is in contrast to a State of Florida Constitution Amendment approved by referendum because the Florida Constitution is the supreme law of the state and is only preempted by the United States Constitution and/or superior federal laws. Accordingly, the proposal would likely be unenforceable and voidable if approved by the voters.

2. The County Has the Ability to Spend \$7,500,000.00 to Annually Acquire Environmentally Sensitive Lands Under Current Funding Mechanisms.

Under Section 17-243 of the Orange County Code, the County currently is required to spend 25% of the Public Service Taxes collected annually to acquire, operate and maintain parks, environmentally sensitive lands and recreational facilities. While the \$7,500,000.00 in said taxes have recently been spent to maintain and operate public parks, those funds are available and authorized to purchase environmentally sensitive lands. Thus, the Committee recommends that the CRC recommend and encourage the BCC to utilize said funds, or a portion thereof, annually to acquire environmentally sensitive lands.

Argument Against Recommendation

1. Without a Charter Mandate, There is No Guarantee Environmentally Sensitive Lands Will Be Acquired.

A recommendation or encouragement from the CRC will be non-binding on the BCC. Accordingly, there is no guarantee that the County will spend \$7,500,000.00, or some portion thereof, annually to acquire environmentally sensitive lands.

Committee Recommendation

Chair Evans made a motion, which was seconded by Member Stoccardo, to: (1) recommend no proposed charter amendment be placed on the ballot; and (2) the full CRC issue a report advising and recommending that the BCC utilize current mechanisms and funding structures to acquire environmentally sensitive lands and to reestablish the County's ad-hoc committee for Green PLACE to receive public input on identifying environmentally sensitive lands and acquisition strategies. The motion carried 4 to 0.

Accordingly, having carefully considered the proposals, memorandums and information received from invited guests, as well as public input, and otherwise being fully advised in the premises, **the Committee recommends that no amendments to the Orange County Charter be made with respect to Permanent Funding for Green PLACE and that the CRC's final report recommends the BCC utilize current mechanisms and funding structures to acquire environmentally sensitive lands and reestablish the County's ad-hoc committee for Green PLACE.**