

# Chapter 8 – Open Space Acquisition

## *Developing and Implementing a Countywide Land Acquisition Program*

This chapter reviews the policy and procedures needed to guide Monroe County’s administration and funding of land acquisition projects.

### **Policies and Procedures for Monroe County’s Open Space Plan**

This section contains commentary and guidance on specific elements of Monroe County’s prospective open space planning and acquisition program.

#### **Establish Land Acquisition Funding Categories**

As Monroe County moves in acquiring open space, either by direct county purchase or through municipal or nonprofit partners, it must develop several pre-qualified land acquisition or project categories. These categories should include:

1. Critical biological habitat / water quality protection;
2. Greenway, trail, and public access connections;
3. Passive use recreational lands;
4. Active use recreational lands;
5. Agricultural preservation; and
6. Historic preservation, which should incorporate both structures and landscapes.

These comprehensive categories permit the County to classify a potential project according to its primary intended use. In addition, the categories will allow the County to better organize disparate or overlapping project information while minimizing the risk of compartmentalizing or merging individual projects, especially those encompassing large, multiple-use parcels such as a greenway. Here we can anticipate a greenway to include “nodes” of use, or various areas providing for both active recreational facilities (such as ballparks or soccer fields), and passive use areas

(picnic areas, campgrounds, or trails), as well as preserving critical biological habitat or watershed protection areas where public access should be limited.

Even with multiple-use projects, developing primary use categories will assist Monroe County in better organizing information for funding applications and in post-closure project record-keeping.

### **Clarify Annual Program Funding**

Early in the program development, professional staff and elected leaders should meet to discuss the amount of bond and/or operational funds annually available to the land acquisition program, which will require multi-year installment agreements. It is good public policy for Monroe County to resolve the anticipated cash flow needs and/or expenditure ceilings prior to being faced with the exceptionally large, “must do” land acquisition.

### **Set Geographic Objectives for Land Acquisition Projects**

Monroe County must determine where “geographically” it intends to expend county funding.

In all probability, Monroe County will have to play two roles. First, the County will have to position itself as a neutral body responsible for establishing and administering guidelines for a “demand-driven” local program (creating demand). Second, the County will have to take on a project advocacy and management role (satisfying its own demands). Because of the structure and allocation of County open space funds, including state funds available through the Department of Conservation and Natural Resources (DNCR) to both counties and municipal governments, Monroe County will likely play these two roles in distributing and allocating funds to meet geographic priorities.

### **Develop Partnership Funding Requirements**

The county’s open space acquisition funding can be interwoven with municipal, state, federal, nonprofit, or philanthropic funds. The Open Space Advisory Board should recommend expectations regarding local match funding and “Land value donations” by private landowners.

### **Utilize a Standard Application Form**

It is essential for Monroe County to develop a standard property application for site evaluation and funding recommendations. This form should follow, but not replace, the existing “Natural Treasures Registry,” prepared and distributed recently by the Monroe County Planning Commission.

The primary function of the Natural Treasures Registry is public relations and system wide planning, namely, to involve the public in resource protection and insuring that the “best places” are not overlooked by the County.

Therefore, an additional document that standardizes *and* discloses information on parcel location, ownership, tax assessment, land use, environmental, and legal conditions is needed to apply for funding. The application should also contain a narrative section that allows the owner-applicant to provide qualitative and promotional information on the unique factors or heritage of the tract.

Because these items are critical to the *evaluative* role of Monroe County in addition to its *capacity* to complete land transactions, the BLOSS Associates study team has attached a three-page application presently used by Ocean County, New Jersey. Similar in structure to Monroe County, Ocean County has been relying on an advisory board and professional staff to administer a property tax-backed open space acquisition program that distributes between \$4 and \$5 million per year. Ocean County's application is simple, direct and useful (see *Appendix G – Ocean County Sample Application Form*).

Future acquisition of open space by Monroe County or its partner municipalities and non-profits should be tied to the valuation and conveyance of legally-describable tax lots or portions thereof. It is important that the owner-applicant indicate the “real property interest” that he/she wishes to sell, such as a fee-simple estate, an easement, a lease, or use-and-occupancy right. Equally important, the application must have a sponsor, be it Monroe County, a municipality, or a qualified nonprofit land trust.

The application should contain a signature block where the landowner formally indicates support for the application effort and agrees to permit the County, its staff, agents, etc. the right to enter the property for the purpose of site evaluation and subsequent due diligence for appraisal, environmental, legal, and survey matters. No application should be deemed complete without the inclusion of mapping, photos, and natural and cultural resource inventory data (if available), subdivision and site planning information (if relevant), title and survey (if available), and real estate broker disclosure data in the event the property is listed for sale.

As discussed in the next section, approval of county funding for a land acquisition project should be conditioned upon the county's review *and* acceptance of a professional land appraisal (or two independent appraisals if the value of the property exceeds \$200,000), and execution of a purchase agreement in a form satisfactory to Monroe County. As part of the process, the County Commissioners should be required to approve the purchase agreement by vote, along with a resolution for the project at a regularly scheduled public meeting.

### **Formalize the County's Project Review Procedures**

Below is a simplified land acquisition process model.

#### Land Acquisition Process Model:

1. Applicant will submit completed form to Open Space Advisory Board and Monroe County staff.
2. To be deemed complete the application must contain:
  - Name of project sponsor (government, nonprofit);
  - Landowner authorization to submit application;
  - Location of property (municipality, street address, tax lot);

- Total acreage (including wetland acreage);
  - On-site improvements (homes, buildings, infrastructure);
  - Riparian or water access;
  - Commercial activities (leases, agreements);
  - Easements (scenic, access, utility);
  - Mortgage and other encumbrances;
  - Planning, subdivision approvals;
  - Adjacent land use;
  - Broker's listing and asking price;
  - Current assessed value (assessed value is not appraised value);
  - Known environmental hazards;
  - Authorized representative (for application);
  - Copy of deed;
  - Copy of title commitment if available;
  - Copy of survey (if available);
  - Narrative statement, including intended use and management, habitat and resource value, imminence of development and public support for preservation;
  - Maps and photos.
3. Monroe County professional staff will:
- Review application;
  - Report to Open Space Advisory Board.
4. Applicant is invited to be present at Advisory Board meeting and may:
- Review preservation objectives, intended use, and ownership;
  - Discuss current ownership and legal issues;
  - Discuss current assessed value, improvements, exclusions;
  - Discuss partnership-funding objectives.

5. Advisory Board will vote on application (by resolution or minutes) and either:
  - Approve;
  - Conditionally-approve;
  - Modify; or
  - Reject.
6. Advisory Board will forward Notice of Approval to County Commissioners:
  - Staff notice;
  - Minutes;
  - Resolution.
7. County Commissioners will engage experts and authorize formal “project management” by staff:
  - Appraisers;
  - Due diligence (legal, environmental, title);
  - Project management;
  - Other.
8. Staff report in executive session:
  - Fair market value;
  - Due diligence findings;
  - Recommendation to proceed with offer.
9. County Commissioners will authorize staff to:
  - Make purchase offer;
  - Set negotiation terms;
  - Return with draft purchase contract.
10. County Commissioners authorize purchase by:
  - Approving purchase contract;
  - Authorizing project funds via ordinance or resolution;
  - Establishing broker or attorney escrow;

- Close and record deed, easements, and covenants (as required).

*NOTE: A non-County applicant may be qualified and deemed responsible for negotiating and closing a project; however, such contract negotiations are subject to County approval per above. Under this model the County is not obligated to manage every project submitted by a non-County applicant. However, the County's funding requires consistency of review, covering appraisal, environmental (Phase I audit), title, and survey tasks (as may be required).*

### **An Example of Considerations for Land Assemblage for Greenways**

Monroe County may wish to proceed with the Godfrey Ridge Greenway and Trail Project and the greater vision for the Brodhead Greenway as identified and described in the *Monroe Greenway Feasibility Study* that preceded this County Open Space Plan and thereby prepare the way for a comprehensive County Greenway Plan. The study determined that a greenway with trails was feasible for the section of Godfrey Ridge in the study corridor and went on to suggest that a broader regional vision could be achieved using the Brodhead Creek corridor. The study details recommendations for the realization of the Godfrey Ridge Trail and Greenway as a model Greenway and Trail Project for the county and five adjoining municipalities. Provided with this opportunity to establish a model for evaluating and assembling a variety of trail corridors and open space land the county must determine whether and how to pursue the acquisition of this land.

A separate technical memorandum was provided to the County as part of this Open Space Plan that deals with strategic and technical considerations for land assemblage in the Godfrey Ridge study corridor.

## **Conclusions**

The long-term success of Monroe County's open space acquisition program relies on two components:

- Principally strong policy direction;
- Procedural guidelines.

With respect to policy direction, Monroe County staff should work closely with the OSAB in creating separate project funding categories, identifying countywide geographic targets, and setting guidelines for partnership funding between and among project participants. Partnership arrangements should include state and federal funding partners. There are many new and creative open space funding sources administered by the Pennsylvania DCNR, DEP and PennDOT, as well as federal agencies such as the Departments of Agriculture and Interior, and the Federal Highway Administration. The latter's TEA-21 (Transportation Equity Act for the 21<sup>st</sup> Century) is playing a critical role in supporting greenway acquisition and improvements.

On the procedural side, Monroe County should develop a standard project application form. This form must build on the existing foundation provided through the County's "Natural Treasures Registry" but should contain enough information for the OSAB to independently evaluate a site in the event a visit to the property cannot be scheduled. As discussed in this chapter, the evaluation form should include information on environmental, land use, and valuation data (i.e., property tax assessment and appraised fair market value), in addition to information on legal and physical access and property title information. County professional staff should create a protocol for evaluating, appraising, negotiating, and "officially approving" a given open space project. By official approval we mean how the County Commissioners earmark funding and approve purchase agreements on selected acquisition properties.

As seen in the *Monroe Greenway Project Feasibility Study*, the proposed Godfrey Ridge Greenway presents Monroe County with an opportunity to establish a model for evaluating and assembling a variety of trail corridors and open space lands. The County must determine whether and how to pursue the acquisition of this land.

## Recommendations

1. The OSAB should provide Monroe County Commissioners with anticipated budget expenditures according to: (a) single- or multi-year timeframes; (b) land acquisition categories; and (c) project partners, including municipal, nonprofit, and other entities.
2. The OSAB should develop a standard open space acquisition application form.
3. A project approvals process or flow-chart should be created by County staff. The process should account for the relationship between and among the OSAB (as an advisory panel), professional staff, and County Commissioners (as elected officials).
4. The County should immediately proceed with steps to acquire the tracts needed for the Godfrey Ridge Greenway.
5. The OSAB County Initiatives sub-committee, in conjunction with the County, should move to develop the application procedures.
6. The County should begin open space acquisitions.

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