



Council Communication

To: Mayor and Village Council

From: Gregory J. Oravec, Village Manager

Date: November 11, 2021

SUBJECT: PRESENTATION BY MONROE COUNTY REGARDING BUILDOUT

At the request of Councilman Rosenthal and consistent with past Village Council discussions regarding this important topic, Roman Gastesi, Monroe County Administrator, Christine Hurley, Monroe County Land Authority, Executive Director, and Emily Schemper, Senior Director of Planning & Environmental Resources for Monroe County, were invited, and have graciously agreed, to make a presentation to the Village Council regarding the looming buildout of Monroe County. Please find a printed version of the presentation attached for your review.

If you have any questions or require additional information, please do not hesitate to contact me.

Thank you.

Monroe County: Actions, Policies, and Programs to Address Potential 2023/2026 Exhaustion of ROGO Allocations and/or Build-Out of the Florida Keys

Roman Gastesi, Monroe County Administrator

Christine Hurley, Monroe County Land Authority, Executive Director

Emily Schemper, Sr. Director of Planning and Environmental Resources

Prepared for:

Islamorada, Village of Islands

Council Meeting

October 14, 2021

Background Information: ROGO/BPAS

1972: Areas of Critical State Concern Program (ACSC) was adopted [Section 380.05, F.S.]

1979: Florida Legislature designates the Florida Keys as an ACSC.

1992: the **Rate of Growth Ordinance or ROGO** adopted.

- ROGO was implemented in order to **provide for the safety of residents in the event of a hurricane evacuation and to protect the significant natural resources of the County**, as required by the State of Florida. ROGO established a competitive permit allocation system where those applications with the highest scores are awarded building permits.

1997: Village of Islamorada incorporated and took on ROGO as “BPAS”

2012: Department of Economic Opportunity (DEO) completed the hurricane evacuation clearance time modeling task and found that with 10 years’ worth of building permits, the Florida Keys would be at a 24-hour evacuation clearance.

- Based upon the resulting 24-hour evacuation clearance, DEO determined the remaining allocations for the Florida Keys (3,550 additional permits countywide, 1,970 of these permits are assigned to Monroe County, **280 assigned to Village of Islamorada**).
- **First time hurricane modeling shows a 24-hour permanent resident evacuation**. Indicates reaching the build-out of the Florida Keys.
- **County starts analyzing the implications of a potential build-out scenario** – knowing this may result in a significant balance of privately held vacant parcels at risk of not obtaining permits in the future. This deficit of building permit allocations could trigger takings suits against both the State and the County, if no additional permits are allowed beyond the year 2023 (2026 for unincorporated County).

Background Information: ROGO/BPAS

2018 Inventory of Privately-Owned Vacant Parcels in Florida Keys and Approximate Land Value

AREA	2018 NO. VACANT PARCELS	2018 AVERAGE PARCEL VALUE****	2018 APPROXIMATE LAND VALUE (December 2018 MC Property Appraiser data)	ESTIMATED FUNDING Based on Historic Rates For Acquisition of Conservation Lands	YEARS TO GENERATE THE FUNDS EQUAL TO THE TAX ASSESSED VALUE
Key West ACSC*	133	\$397,235	\$52,832,202	\$270,000*	196
Unincorporated MC	7,033	\$85,858	\$603,840,749	\$2,000,000	302 †
Marathon	1,349	\$100,481	\$135,548,863		68 †
Layton	24	\$123,928	\$2,974,267		1 †
Key Colony Beach	81	\$347,988	\$28,187,020		14 †
Islamorada	1,070	\$158,061	\$169,125,630		85 †
TOTAL PARCELS	9,690	\$102,426	\$992,508,731		
TOTAL REMAINING ALLOCATIONS	1,421	In 2012, the State authorized 3,550 County wide allocations, including cities, with 1,970 allocations for unincorporated MC.			
PARCELS TO PURCHASE (COUNTYWIDE)	8,269**	\$102,426***	\$846,961,269	\$2,000,000	423**

Based on data from 2018, the unincorporated County, after utilizing all ROGO allocations granted by the State in 2012, the County and all incorporated jurisdictions combined will have approximately 8,269 vacant privately owned parcels remaining beyond the allocations available.

In 2018, Village had approximately 1,070 vacant privately owned parcels remaining; with 28 BPAS/year available.

* During the 5 year period of FY 2014-2018, 100% of the Monroe County Land Authority expenditures in the Key West ACSC were for affordable housing. Previously, the Monroe County Land Authority historically allocated approximately 18% (\$270,000/yr) of the Key West ACSC portion of tourist impact tax revenue to the purchase of conservation and recreation lands. \$270,000 is used for analysis of Key West.

** The total vacant parcels (9,690) less the 1,421 allocations available results in 8,269 parcels to purchase. At an average cost of \$102,426 it will take 423 years to acquire these parcels utilizing \$2M.

*** This analysis assumes no growth in property value over time. Note property values could change exponentially.

† Land values for each jurisdiction are divided by the \$2M estimated funding figure.

2020 Census: Hurricane Evacuation Modeling Update

2022/2023: the Department of Economic Opportunity (DEO) and the Division of Emergency Management (DEM) will run an evacuation model after the compilation of the 2020 Census data.

- A new Memorandum of Understanding (MOU) with the DEO, DEM, Marathon, Islamorada, Key West, Key Colony Beach and Layton will be required. MOU stipulates, based on professionally acceptable data and analysis, the input variables and assumptions, including regional considerations, for utilizing the Florida Keys Hurricane Evacuation Model.
- This will be the earliest timeframe that the County and other jurisdictions will be able to evaluate the results based on any population/vehicle changes, unit occupancy rate changes and other factors in the inputs and assumptions utilized within the hurricane modeling.
- Until the results of the upcoming evacuation modeling are known, the Florida Keys ACSC jurisdictions must anticipate that building permit allocations may not be authorized beyond the year 2023.
- Again, this deficit of building permit allocations could trigger takings suits against both the State, County and cities, if no additional permits are authorized based on the 2020 Census hurricane modeling.

County Actions Taken

January, 2020, County adopted ordinances to extend remaining allocations through 2026.

Beginning July 13, 2020 (ROGO YR 29), the available market rate allocations were reduced from 126/year to 64/year to extend the distribution of ROGO allocations through 2026.

- Increases time for land acquisition
- Allows time for CP and Code updates following next evacuation model (end of 2022?)

Village could adopt similar amendment to BPAS allocation schedule.

- Spread remaining 28 over 4 years?

ROGO Year	Annual Allocation	
	Market Rate	Affordable Housing
July 13, 2013- July 12, 2014	126 U: 61, L:57, BPK/NNK: 8	71
July 13, 2014- July 12, 2015	126 U: 61, L:57, BPK/NNK: 8	71
July 13, 2015- July 12, 2016	126 U: 61, L:57, BPK/NNK: 8	71
July 13, 2016- July 12, 2017	126 U: 61, L:57, BPK/NNK: 8	497 total AFH (total available immediately)
July 13, 2017- July 12, 2018	126 U: 61, L:57, BPK/NNK: 8	
July 13, 2018- July 12, 2019	126 U: 61, L:57, BPK/NNK: 8	
July 13, 2019- July 12, 2020	126 U: 61, L:57, BPK/NNK: 8	
July 13, 2020- July 12, 2021	126 64 U: 61 31, L: 57 29, BPK/NNK: 8 4	
July 13, 2021- July 12, 2022	126 64 U: 61 31, L: 57 29, BPK/NNK: 8 4	
July 13, 2022- July 12, 2023	126 64 U: 61 31, L: 57 29, BPK/NNK: 8 4	
<u>July 13, 2023- July 12, 2024</u>	<u>62</u> <u>U: 30, L:28, BPK/NNK: 4</u>	
<u>July 13, 2024- July 12, 2025</u>	<u>62</u> <u>U: 30, L:28, BPK/NNK: 4</u>	
<u>July 13, 2025- July 12, 2026</u>	<u>62</u> <u>U: 30, L:28, BPK/NNK: 4</u>	
Total	1,260	710*
*Includes two annual affordable ROGO allocation for the Big Pine Key / No Name Key subarea through the Incidental Take Permit (ITP) ending in 2023.		

County Actions Taken

2016 Comprehensive Plan / Code Update:

Added new categories for extra ROGO points for Land Dedication and Lot Aggregation

Categories Target Both: Conservation Land AND Retirement of Density

Code also includes up to 2 points for \$ payment into the Land Acquisition Fund

- The monetary value of each point is set annually by the County based upon the estimated average fair market value of vacant, privately-owned, buildable IS/URM zoned, platted lots.

<p>Land Dedication outside Big Pine/No Name Keys Subarea: The following points shall be assigned to allocation applications to encourage the voluntary dedication of vacant, buildable land within Tier I designated areas, Tier II (Big Pine Key and No Name Key), Tier III-A Special Protection Areas (SPA), and parcels which contain undisturbed wetlands for the purposes of conservation, resource protection, restoration or density reduction and, if located in Tier III outside of Special Protection Areas (SPA), for the purpose of retirement of development rights or providing land for affordable housing where appropriate. Applicants can utilize lands dedicated pursuant to Policy 101.5.26; however, submerged lands (inundated by water) shall not be eligible for land dedication.</p>	
<p><input type="checkbox"/> +4 points per platted lot: Proposes dedication to Monroe County of one (1) vacant, legally platted lot, designated as Tier III for affordable housing, containing a minimum of 2,000 additional vacant, legally platted lot that meets the aforementioned requirements.</p> <p>Number of platted lots in Tier III for Affordable Housing: _____ X 4 = _____</p>	<p>Points:</p>
<p><input type="checkbox"/> +5 points per platted lot: Proposes dedication to Monroe County of one (1) minimum of 2,000 square feet of uplands, designated as Tier III for the retirement of density. Each additional vacant, legally platted lot that meets the aforementioned requirements will earn points as specified.</p> <p>Number of platted lots in Tier III retiring rights: _____ X 5 = _____</p>	<p><input type="checkbox"/> +4 points for each acre: Proposes dedication to Monroe County of at least one (1) acre of vacant, unplatted land located within a Tier I area containing a minimum of 2,000 square feet of uplands. Each additional one (1) acre of vacant, unplatted land that meets the aforementioned requirements will earn points as specified.</p> <p>Number of acres in Tier I: _____ X 4 = _____</p>
<p><input type="checkbox"/> +4 points per parcel: Proposes dedication to Monroe County of one (1) vacant parcel that meets the aforementioned requirements will earn points as specified.</p> <p>Number of parcels in Tier III retiring rights: _____ X 4 = _____</p>	<p><input type="checkbox"/> +2 points for each platted lot: Proposes dedication to Monroe County of one (1) vacant, legally platted lot which contains undisturbed wetlands. Each additional vacant, legally platted lot that meets the aforementioned requirements will earn points as specified.</p> <p>Number of platted lots containing undisturbed wetlands: _____ X 2 = _____</p>
<p><input type="checkbox"/> +1 point per platted lot: Proposes dedication to Monroe County of a vacant lot within a Tier I area, designated as Residential Low containing a minimum of 2,000 additional vacant, legally platted lot that meets the aforementioned requirements.</p> <p>Number of platted lots in Tier I (RL): _____ X 1 = _____</p>	<p><input type="checkbox"/> +2.5 points for each platted lot: Proposes dedication to Monroe County of one (1) vacant, legally platted lot, designated as Tier I, containing a minimum of 2,000 square feet of uplands and not designated as Residential Conservation or Residential Low. Each additional vacant, legally platted lot that meets the aforementioned requirements will earn points as specified.</p> <p>Number of platted lots in Tier I (NOT designated RC or RL): _____ X 2.5 = _____</p>
<p><input type="checkbox"/> +0.5 points per platted lot: Proposes dedication to Monroe County of one (1) vacant, unplatted parcel within a Tier I area, designated as Residential Conservation containing a minimum of 2,000 square feet of uplands. Each additional vacant, legally platted lot that meets the aforementioned requirements will earn points as specified.</p> <p>Number of platted lots in Tier I (RC): _____ X 0.5 = _____</p>	<p><input type="checkbox"/> +2 points for each platted lot: Proposes dedication to Monroe County of one (1) vacant, legally platted lot, designated as Tier III-A (Special Protection Area-SPA) containing a minimum of 2,000 square feet of uplands. Each additional vacant, legally platted lot that meets the aforementioned requirements will earn points as specified.</p> <p>Number of platted lots in Tier III-A (SPA): _____ X 2 = _____</p>
<p><input type="checkbox"/> +2 points per parcel: Proposes dedication to Monroe County less than one (1) acre of vacant, unplatted land located within a Tier III-A area containing a minimum of 2,000 square feet of uplands. Each additional parcel with vacant, unplatted land that meets the aforementioned requirements will earn points as specified.</p>	<p><input type="checkbox"/> +3 points per parcel: Proposes dedication to Monroe County of at least one (1) acre of vacant, unplatted land located within a Tier III-A area containing a minimum of 2,000 square feet of uplands. Each additional parcel with vacant, unplatted land that meets the aforementioned requirements will earn points as specified.</p> <p>Number of unplatted parcels in Tier III-A (SPA): _____ X 3 = _____</p>

County Actions Taken

2016 Comprehensive Plan/
Code Update:

**Opened up Transfer of
ROGO exemptions to Market
Rate Units – must replace
with an affordable unit on
sender site or other site.**

Potential to open even more in
future if needed/desired.

- c. *Transfer of a market rate unit.* A lawfully established permanent market rate dwelling unit may be transferred to a receiver site and developed as a single family detached market rate dwelling unit, subject to the following:
1. The transfer of market rate ROGO exemptions may be allowed provided that one of the following is satisfied:
 - i. A 99 year deed-restricted affordable housing unit, pursuant to Sections [101-1](#) and [139-1](#), is retained or redeveloped on the sender site. If the existing dwelling unit is proposed as the deed-restricted affordable housing unit, the unit shall pass a life safety inspection conducted in a manner prescribed by the Monroe County Building Department, comply with hurricane standards established by the Florida Building Code, and habitability standards established under the Florida Landlord and Tenant Act; or
 - ii. The sender site is dedicated to Monroe County for the development of affordable housing and an in-lieu fee per unit, based on the current maximum sales price for a one-bedroom affordable unit as established under Section 139-1(a), is paid to the affordable housing trust fund; or
 - iii. A 99 year deed-restricted affordable housing unit, pursuant to Sections [101-1](#) and [139-1](#), is developed on a Tier III property (single-family residential lots or parcels) and the dwelling unit on the sender site is demolished and the sender site is restored.

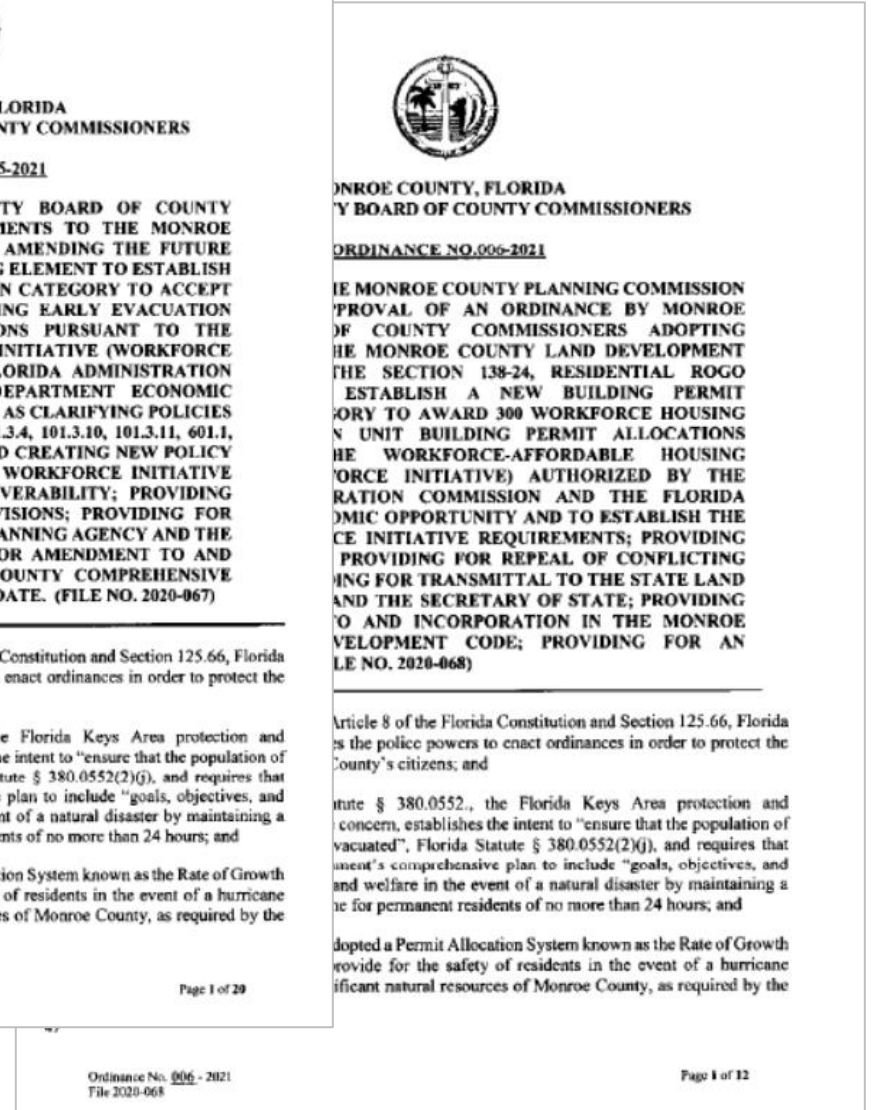
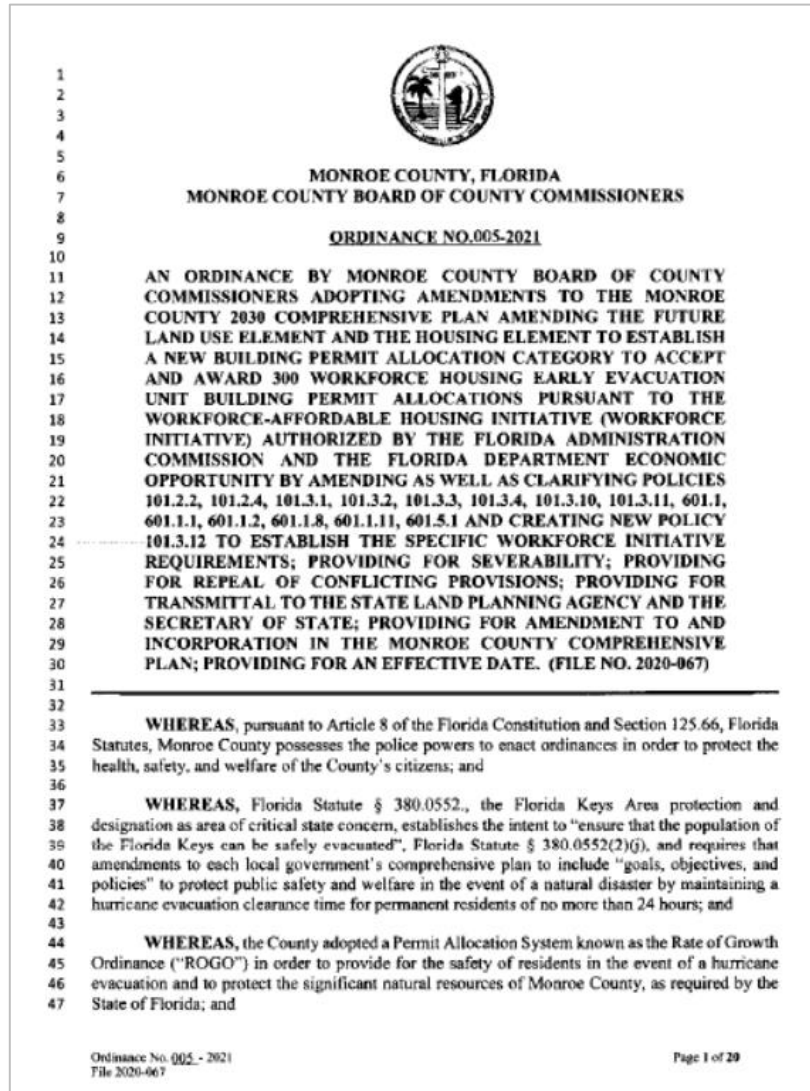
County Actions Taken

State of Florida Workforce Affordable Housing Initiative

In April, 2021, the County adopted Comprehensive Plan and Land Development Code amendments to accept 300 Workforce Housing early evacuation units, structured as an exchange program.

The 300 units must be exchanged for existing affordable housing ROGO allocations at multifamily sites, with the exchanged ROGO allocations going into County Administrative Relief for future use.

currently under appeal



Land Acquisition Funding

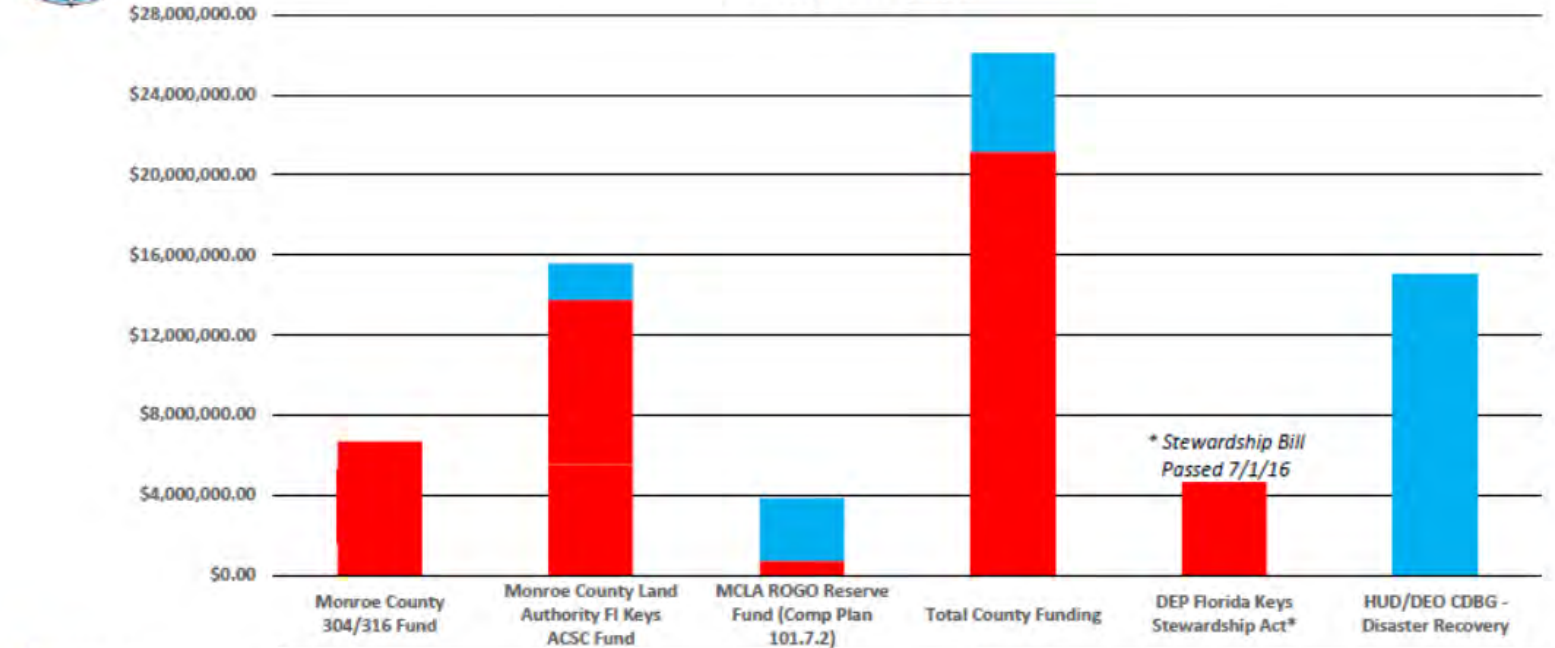
In anticipation of the significant remaining private, vacant parcels, in 2016 the Monroe County BOCC authorized staff to commence land acquisition programs to supplement the long-standing efforts of the Monroe County Land Authority and those of the State of Florida.

These include:
 Less Than Fee and
 Density Reduction Programs, which
 use **304/Infrastructure Sales Tax funds**.



September 2021 - Land Acquisition and Funding
 Available and Potential Balances
 From 7/1/16 * to 9/17/21

Land Authority Funding
 sources = 1 cent
 Tourist Impact tax &
 State Park surcharge.



	Monroe County 304/316 Fund	Monroe County Land Authority FI Keys ACSC Fund	MCLA ROGO Reserve Fund (Comp Plan 101.7.2)	Total County Funding	DEP Florida Keys Stewardship Act*	HUD/DEO CDBG - Disaster Recovery
Available Balance	\$0	\$1,804,994	\$3,117,944	\$4,922,938		
Encumbered or Spent				\$21,159,091		
Conservation & Density Reduction	\$1,407,722	\$8,245,342	\$714,674 ^c		\$4,651,460	
LTF Density Reduction	\$3,694,129					
Affordable Housing	\$1,578,443 ^a	\$5,518,781 ^b				
Future Funding						\$15,000,000
TDRs Retired by Fund	97.00	168.24	1.00	265.24	84.89	
Total TDRs Retired (all funds)				350.13		

NOTES: ^a - This total includes \$990,000 that may be reimbursed by the FHFC CDBG-DR grant for the Conch Trailer Court property
^b - This total includes \$1,379,958 that may be reimbursed by the FHFC CDBG-DR grant for Howards Haven and 12 Lower Keys Scattered Sites properties. This total also includes \$190,679 (fifty percent of the Davis judgment) that was reimbursed by the State of Florida to Monroe County and is pending transfer into the fund.
^c - This total includes \$269,685 (fifty percent of the Galleon Bay judgment) that was reimbursed by the State of Florida and is pending transfer into the fund.

Conservation Land (Keyswide)

Mark Rosch – 305-295-5180

The Conservation Land Program purchases lands to protect the natural environment and preserve wildlife habitats.

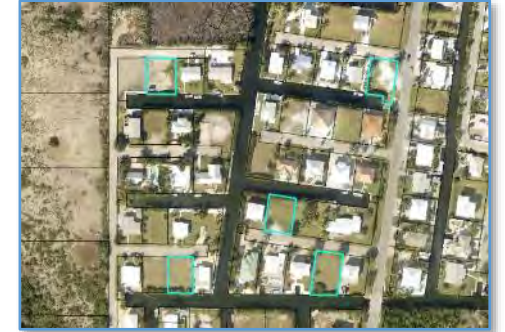


Funding: Monroe County Land Authority Funds

- ½ cent Tourist Impact Tax (bed tax)
- Park Surcharge Fees on admissions to State Parks in incorporated area
- FDEP/Florida Forever/Stewardship Funds

Density Reduction (Unincorporated)

Mark Rosch – 305-295-5180



The Density Reduction Program purchases lands that do not consist of significant habitat, to retire density where the lot or parcel being purchased has at least 1 Transferable Development Right (TDR).

- Lands that have a TDR gives a property owner what they need to apply for a Rate of Growth Ordinance (ROGO) allocation.
- Lands are typically located in Improved Subdivision (IS) or Urban Residential Medium (URM) subdivisions, but they can be in other zoning categories as long as they have at least 1 TDR.

Funding: 304/Infrastructure Sales Tax

FEMA Flood Mitigation Assistance (FMA) (Keyswide)

Mike Lalbachan – 305-453-8796

The FMA annual program purchases homes from willing sellers to eliminate future flood risk.

- No income eligibility for participants
- Property Owner must have flood insurance through National Flood Insurance Program (NFIP)
- After purchase, the County may only use the land as green space, recreational, or stormwater/flood infrastructure
- Funding is available on an annual basis; however, it takes 2-3 years to complete purchase



- County pays match amount required for acquisition
- County recovers the Rate of Growth Ordinance (ROGO) allocation when they demolish the home

Funding: FEMA - FMA Grant

Less than Fee (Unincorporated)

Cynthia Guerra – 305-453-8756

The Less than Fee Program purchases Development Rights from owners of lots zoned IS, IS-M and URM adjacent to the seller's primary residence. Property owners can continue to use the land for accessory structures permitted by county land use regulations, such as a pool, open yard, or garage. No income eligibility for participants

- Upon sale, owners must execute a restrictive covenant agreeing to unify the parcels and agreeing to never seek a ROGO allocation or permit to develop any habitable space.
- Adjacency is defined as: a parcel of land sharing a boundary with another parcel of land at one or more points of intersection.



- Currently there is a waiting list of applicants the County is processing.
- The Board of County Commissioners established the prioritization for the program, which at this time is eligible lots on BPK and NNK.
- To apply for this program go to: www.monroecounty-fl.gov/LessThanFee-Program
- 74 development rights retired so far (\$3.69M)

Funding: 304/Infrastructure Sales Tax

Voluntary Home Buyout Program (Unincorporated)

Cynthia Guerra – 305-453-8756

The Voluntary Home Buyout Program purchases property damaged by Hurricane Irma, to eliminate future flood risk and assist vulnerable populations in low-moderate income areas.

- Income information required for participants
- After purchase, the County may only use the land as green space, passive recreation, or to restore natural floodplain functions




- There are prioritization criteria for ranking of parcels for purchase.
- www.monroecounty-fl.gov/homebuyout

Funding: CDGB-DR

Potential Future Policies, Programs, and Actions

In 2019, and on March 31, 2021, the BOCC held a special meeting to review existing and potential Actions, Programs, and Policies that the County could pursue to address the impending end of ROGO allocations. Based on BOCC direction, some of the following FUTURE potential items are in progress, some tabled, and some currently undergoing additional analysis.

Program/Idea	Description	Funding Required (Yes/No)	CPLDC Provision	BOCC Direction 01.30.19	Current Status
Existing Policy and Programs					
1	<p>Less Than Fee Program</p> <p>Staff: Bob Shillinger, Charlie Patton, Mimi-Rozek, Cynthia Guerra, Necia Scull</p> <p>The Monroe County Commission has been seeking to build a house on a vacant lot, rights on vacant land that would otherwise be used for agriculture. The County Commission created the "Less Than Fee" (LTF) program. For vacant lots, the County will purchase the rights on vacant land that would otherwise be used for agriculture. The program allows owners to return on allowed accessory uses like a pool, open 1/2 acre lot, build a house on that lot. The offer price for the current Market Land Value (MLV) as of the Florida Constitution, the Property Appraiser is elected by the voters of Monroe County provided that the owner agrees to a deed 1/2 home on the vacant lot in perpetuity. All to be final approval.</p>				
Future Policy and Programs					
1	<p>300 early evacuation allocations</p> <p>Staff: Emily Scheraga, Megan Santomaria</p> <p>Accept the 300 workforce housing early evacuation the Workforce-Affordable Housing Initiative in Commission and the Florida Department Economic in exchange for existing affordable allocations/early evacuation restriction and the affordable lot (returned in the exchange) will be set aside and bank</p>				
Future Actions					
1	<p>Lobby State Legislature</p> <p>Staff: Derek Howard, Bob Shillinger</p> <p>Lobby State legislature to adopt a bill whereby a court must apportion damages for a regulatory taking equally between the State and local government in an Area of Critical State Concern.</p>	No		Continue moving forward. 50/50 Bill	The bill lacked sufficient leadership support during the 2020 Legislative session to warrant further pursuit at this time. The State has appropriated funds to cover its 50% share of the liability on individual cases to date. Recommend reevaluation for future legislative sessions.
2	<p>Contiguous Land Merger</p> <p>Staff: Derek Howard</p> <p>Adopt Contiguous Land Merger Ordinance, consist would provide a process by which Monroe County contiguous parcels held in common ownership when does not conform to standards for development due compatibility.</p>			Yes	Potential Example  Recommend ongoing further research.
3	<p>Create a ROGO Category for market-rate workforce housing</p> <p>Staff: Cheryl Claffier, Megan Santomaria</p> <p>Develop a new ROGO category of market-rate consent to maintaining the property as market-rate within Monroe County, but NOT subject to affordable could be enhanced by providing a dedicated allocation ROGO system for applicants willing to impose a site market-rate ROGOs.</p>			Yes	Recommend continuing ongoing collection.
3	<p>Pursue Code Items</p> <p>Staff: Bob Shillinger, Cynthia McPherson, Necia Scull</p> <p>Pursue and finalize code items where appropriate.</p>	Yes		Yes	
4	<p>Create a ROGO Category whereby the ROGOs must be used for owners who will maintain homestead exemption</p> <p>Staff: Cheryl Claffier, Megan Santomaria</p> <p>Develop a new ROGO category of market-rate; maintaining the property with a homesteaded development. Prioritization of these units could allocation pool and providing points through the RO to maintaining a homesteaded exemption single site use</p>				
4	<p>Rate taxes</p> <p>Staff: Bob Shillinger, Megan Santomaria, Cynthia Guerra</p> <p>Items 11-16 from original White Paper.</p> <p>11. Increase the 1 cent Tourist Impact Tax. Currently 50% of the 1 cent tax is dedicated to land acquisition within the area from which it is derived and used by MC Land Authority to purchase land for conservation or affordable housing. This tax is collected on hotel rooms rentals and other transient accommodations.</p> <p>12. Dedicate 10% of current 1 cent infrastructure sales surtax (§ 111.065(2)(d), F.S.). Currently the County may designate 10% of this tax for "other purposes," which could be for land acquisition.</p>	No		No clear direction.	The half of a 1 cent Tourist Impact tax (pursuant to § 125.0108, F.S.), provides an annual revenue for the Florida Keys ACSC of approximately \$1.8 million (5 year average of FY 14-18). This also generates approximately \$2.5 million annually for the Key West ACSC (5 year average of FY 14-18). If the County passed by referendum, after amending State legislation, an additional 0.5% to the Tourist Impact Tax, there would be additional dedicated funding for purchasing land within the County. The BOCC can make a policy decision to allocate 10% of the amount of sales tax revenue for unincorporated Monroe County for land acquisition without a referendum or state authorization. Started in 2016, \$6 million dollars were set aside from infrastructure sales tax revenue for the purchase of non-conservation properties for density reduction and the retirement of development rights. \$1.25M was allocated in 2020.

Potential Future Policy and Programs

Establish an Urban Service District

An urban service district is an area in which urban services will be provided and outside of which such services will not be extended thus discouraging development sprawl.

Monroe County may create an Urban Service District (USD) to discourage and disallow development of land outside of the designated area (areas served by existing infrastructure including roadways, sewer, water and electric).

Monroe County could seek ACSC legislative changes to disallow any extension of public facilities (electric, water, sewer, cable) into Coastal Barrier Resource System (CBRS), OPAs, urban service district, for example.

Monroe County could supplement this strategy to discourage residential development by amending ROGO regulations to either: (1) disallow development without utilities, or (2) give negative points. Currently, negative points in ROGO are obtained for development in Big Pine Key, wetlands, CBRS areas and v-zones (flood plain).

Potential Example:



Potential Future Policy and Programs

Create climate change adaptation areas and disallow any development on land where sea level rise will put land under water in future.

In 2013, the BOCC adopted the Monroe County Community Climate Action Plan (MCAP). The purpose of the MCAP is to outline a course of action for the County government and communities of Monroe County for a coordinated countywide strategy to minimize climate change impacts and to increase the sustainability of the communities within the Florida Keys. The MCAP is an attempt to mitigate future impacts by reducing communitywide greenhouse gas (GHG) emissions to 20% below 2005 levels by 2020 and to identify local adaptation needs for protection against future sea level rise. The MCAP has been designed to support three primary functions:

1. Provide clear guidance to County staff regarding when and how to implement key provisions of the plan; and
2. Inspire residents and businesses to participate in community efforts to address climate change issues; and
3. Demonstrate Monroe County's commitment to climate change mitigation and adaptation.

The plan contains strategies, objectives, measures, and actions that will direct the County's efforts. Two recommended actions include:

- P-2.1: Revise Monroe County's Comprehensive Plan to address strategic planning related to climate change mitigation and adaptation needs.
- P-2.2: Incorporate the "Adaptation Action Area" designation into local comprehensive plans and regional planning documents to identify those areas deemed most vulnerable to sea level rise and other climate change impacts.

The creation of a Climate Change Element as a part of the Monroe County Comprehensive Plan includes strategies to address the impacts of climate change, including Policy 1502.1.4 regarding identifying criteria to define *adaptation action areas (AAA)*, or a similar concept. Adaptive management principles would be used to continually reviewed to revise climate mitigation and adaptation policies, objectives, and Land Development Regulations.

The County could designate *adaptation action areas* to identify areas that experience coastal flooding and are vulnerable to sea level rise, for the purpose of prioritizing funding for infrastructure needs and adaptation planning. This could include both developed and undeveloped areas, and be used as a tool to guide policies and regulations that serve to reduce future risk and economic losses associated with sea level rise.

Potential Future Policy and Programs

Rezone land from residential uses to other uses

Monroe County may identify vacant parcels of land that are currently within a land use (zoning) district that allows residential uses and amend the zoning designation to a zoning district that does not allow residential uses. For example, Commercial 1 and Commercial 2 zoning districts allow for nonresidential use of the parcel, but prohibits any residential use of the parcel.

Note, proposed rezonings may also impact Future Land Use Map (FLUM) designations and require Comp Plan FLUM amendments as well.

Alternative: Offer to redesignate vacant land with certain priorities and/or categories: The County could identify priority areas (for example: vacant locations adjacent to US1 that propose commercial categories) or specific targeted land use categories (for example: Preservation, Conservation, Recreation and/or Public Facilities categories) and **offer to process amendments for properties owners that submit an authorization form and that meet the identified criteria.**

Potential Example:



Potential Future Policy and Programs

Add nonresidential uses to residential zoning districts (community gardens, small business, boat trailer parking)

Monroe County may amend the text of specific land use (zoning) districts to provide for additional nonresidential uses such as community gardens, boat trailer parking, docks, and municipal/private parking, for example. Additionally, Monroe County may consider exempting recreational vehicles from ROGO for vacant lots only.

Amending the text of the specific land use (zoning) districts would apply to all land designated with those categories.

For example, the residential land use districts (like IS, SR, URM) already allow Parks as a use. For district like these, the County could consider adding another similar nonresidential use such as community gardens.

Contiguous Land Merger

Adopt Contiguous Land Merger Ordinance, consistent with *Murr v. Wisconsin*. The ordinance would provide a process by which Monroe County may seek to merge two (2) or more contiguous parcels held in common ownership where one (1) or more of the contiguous parcels does not conform to standards for development due to environmental quality or environmental compatibility.

Potential Future Policy and Programs

Create another Commercial Zoning category for smaller/less intense uses to provide services to the immediate vicinity of a residential neighborhood

Develop another Commercial zoning category, for example *Neighborhood Business (NB) zoning district*, with the purpose of providing a nonresidential uses that are for the immediate needs of the neighborhood/existing residential development. Applicant would apply for the zoning category and the designation would be applied to specific parcels, if the map amendment is approved. Category could include parameters, such as:

- Intended for Tier III infill/small areas (<1 acres or ½ acre?) within or adjacent to residentially zoned areas
- Provides as-of-right uses (approved through a building permit) only,
- Limit size of structures, for example: commercial retail limited to 2,000 square feet and commercial recreation limited to 1,000 square feet, etc.
- Could require distancing: may not be located within _____feet (specify distance?) of another parcel already designated as NB
- Could exempt the need for NROGO within this zoning category (incentivize zoning change and nonresidential development)

Potential Future Actions

Eminent Domain of Unimproved, Platted Rights-of-Way

Exercise eminent domain to acquire title to unimproved, platted rights-of-way (areas typically covered by right-of-way easements running in favor of the County) for the purpose of conservation and/or takings liability reduction. This would reduce the reasonable investment-backed expectations of development of adjacently-located platted, privately-owned undeveloped parcels currently without access to an improved right-of-way.



Lobby State Legislature

Lobby State legislature to adopt a bill whereby a court must apportion damages for a regulatory taking equally between the State and local government in an Area of Critical State Concern.

The bill lacked sufficient leadership support during the 2020 Legislative session to warrant further pursuit at this time.

The State has appropriated funds to cover its 50% share of the liability on individual cases to date.

Pursue Code liens

Pursue and foreclose code liens where appropriate.

Potential Future Actions

Raise Taxes

Increase the 1 cent Tourist Impact Tax. Currently 50% of the 1 cent tax is dedicated to land acquisition within the areas from which it is derived and used by MC Land Authority to purchase land for conservation or affordable housing. This tax is collected on hotel rooms rentals and other transient accommodations.

The half of a 1 cent Tourist Impact tax (pursuant to § 125.0108, F.S.), provides an annual revenue for the Florida Keys ACSC of approximately \$1.8 million (5 year average of FY 14-18). This also generates approximately \$2.3 million annually for the Key West ACSC (5 year average of FY 14-18).

If the County passed by referendum, after amending State legislation, an additional 0.5% to the Tourist Impact Tax, there would be additional dedicated funding for purchasing land within the County.

Explore a toll on US 1 with a portion of the funds generated to be used to fund acquisition, restoration and maintenance of conservation lands (similar to Alligator Alley toll for Everglade's restoration).

Requires Federal and State legislation to authorize the imposition of a toll on U.S. 1.

Potential Future Actions

Raise Taxes

Dedicate 10% of current 1 cent infrastructure sales surtax (§ 212.055(2)(f)3., F.S.). Currently the County may designate 10% of this tax for “other purposes,” which could be for land acquisition.

The BOCC can make a policy decision to allocate 10% of the amount of sales tax received for unincorporated Monroe County for land acquisition without a referendum or state authorization.

Starting in 2016, \$6 million dollars were set aside from infrastructure sales tax revenue for the purchase of non-conservation properties for density reduction and the retirement of development rights. \$1.25M was allocated in 2020.

Increase sales tax. Currently at 7.5% and dedicate 100% of the revenue generated by the increase to land acquisition. This tax is collected on all qualifying sales at the time of purchase.

A top priority for the County is to secure authority from the State to levy an extra 1-penny sales tax, utilizing the revenue raised to implement a road elevation program to respond to the severe and persistent flooding of the County's roads from sea level rise, King Tides, and storm inundation.

Potential Future Actions

Raise Taxes

Establish a special taxing authority, a dedicated revenue stream and corresponding bond issue, by referendum for an ad-valorem tax to be dedicated to land acquisition.

Establishing a County-wide Environmental Land Acquisition Ordinance is contingent upon adopting an ad valorem tax designated specifically for the purchase and management of density reduction and conservation lands. This option has had wide application in Florida, with 20+ Counties and 20+ municipalities adopting an environmental lands program based on this model.

Process for Establishing Countywide Taxing Authority by the County (in general):

- 1) Formation of a grass-roots citizens group to highlight and support the issues, initiated by residents or by the County (for example: via contracting with an organization such as The Trust for Public Lands, etc.)
- 2) BOCC passes enabling legislation purchase program and proposed tax
- 3) Voter approval referendum for ad valorem tax for purchases or bond issue
- 4) BOCC adopts conservation land selection standards
- 5) BOCC approves funding for either or both
 - a) A bond issue to borrow funds for purchase
 - b) Establishing a Conservation Land Fund to purchase as revenue is collected.

According to the FY21 Adopted Annual Operating & Capital Budget summary, the estimated actual value of taxable property in the Florida Keys (unincorporated and incorporated) in 2019 was approximately \$33.5B.

Example fund generation from a voter referendum for an ad-valorem tax to be dedicated to land acquisition:

0.25 mil = ~\$8.3 M
0.50 mil = ~\$16.8M
0.75 mil = ~\$25 M
1 mil = ~\$33.5M

Example annual average cost by example millage rate based on \$500,000 residential property value:

0.25 mil = \$125.00
0.50 mil = \$250.00
0.75 mil = \$375.00
1 mil = \$500.00

Potential Future Actions

Develop purchasing tax deed programs

The acquisition of tax deeds would require separate BOCC authority and development of an internal financing process to make purchases at tax deed auctions. Since government decisions are made at public meetings, it is difficult for government to authorize a maximum bid without tipping its hand to the other bidders in advance of the auction, but program parameters can be developed to set fixed guidance for bidding. Typically, the bid process requires the successful bidder to make payment within 24 hours, so financial procedures which can deviate from typical procurement processes would have to be developed to allow for prompt payment of winning bids. There may be some challenges related to public perception. Since it is government's taxing and regulatory powers that give rise to a tax deed sale in the first place, some members of the public may view the government's purchase of property at tax deed sales as being unfair or inappropriate. Purchasing tax deeds requires scrutiny of appraised value (if available) versus assessed value versus taxes owed (which is usually the opening bid). Nothing should be acquired above appraised/assessed unless addressed in standing BOCC authority. The cost of taxes owed needs to be considered in terms of what is delinquent and what is not delinquent, as the tax deed purchase price may not adequately capture the true purchase price of the parcel. There is also a risk that title acquired through tax deed may not be marketable or insurable, so title reviews are an important step towards managing and assessing this risk. Title searches may be available and on file with the tax deed office. This information may need to be supplemented by a low-cost title update performed by an independent contractor. Liens are not typically cleared by a tax deed sale, so the parcels also need to be reviewed for any liens to determine if the lien liability exceeds the value of the property. Also, with tax deeds the tax delinquency needs to be checked often to make sure owner is not paying them and taking the parcel out of an upcoming auction. Tax deeds present a path forward to acquiring parcels in a cost-efficient manner, but the process can be staff intensive.

Thank you

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