

## Marguerite Linke

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**From:** Bryant, Linda C. <Linda.Bryant@DOS.MyFlorida.com>  
**Sent:** Friday, August 11, 2017 7:41 AM  
**To:** Marguerite Linke  
**Cc:** County Ordinances  
**Subject:** Hernando20170810\_Ordinance2017\_29\_Ack.pdf  
**Attachments:** Hernando20170810\_Ordinance2017\_29\_Ack.pdf

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## FLORIDA DEPARTMENT *of* STATE

**RICK SCOTT**  
Governor

**KEN DETZNER**  
Secretary of State

August 11, 2017

Honorable Don Barbee Jr.  
Hernando County Clerk's Office  
20 North Main Street, Rm. 3621  
Brooksville, Florida 34601

Attention: Marguerite Linke, Administrative Services

Dear Mr. Barbee:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Hernando County Ordinance No. 2017-29, which was filed in this office on August 10, 2017.

Sincerely,

Ernest L. Reddick  
Program Administrator

ELR/lb



1           WHEREAS, Fla. Stat. § 125.35(3) requires that the alternative standards and procedures set  
2 out in this ordinance provide at a minimum for:

- 3           (a)    The establishment of competition and qualification standards upon which disposition  
4                   will be determined; and,
- 5           (b)    The provision of reasonable public notice of the intent to consider disposition of  
6                   county property and the availability of copies of the standards; reasonableness of the  
7                   notice is to be determined by the efficacy and efficiency of the means of  
8                   communication used; and,
- 9           (c)    The identification of the form and manner by which an interested person may acquire  
10                  county property; and,
- 11          (d)    The delineation of the types of negotiation procedures applicable to the selection of  
12                  a person to whom county properties may be disposed; and,
- 13          (e)    The delineation of the manner in which interested persons will be notified of the  
14                  board's intent to consider final action at a regular meeting of the board on the  
15                  disposition of a property and the time and manner for making objections; and,
- 16          (f)    The adherence in the disposition of real property to the governing comprehensive  
17                  plan and zoning ordinances; and,

18           WHEREAS, the Board finds that the alternative standards and procedures set out in this  
19 ordinance meet or exceed the minimum requirements set out in Fla. Stat. § 125.35(3); and,

1           WHEREAS, Fla. Stat. § 332.08 allows for the Board to adopt policies to manage properties  
2 located within airports; and,

3           WHEREAS the Board wishes to refine the procedures by which the County sells, conveys,  
4 and leases real property and improvements constructed thereon in the manner provided for herein;

5           NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY  
6 COMMISSIONERS OF HERNANDO COUNTY:

7           **Section 1. Adoption of Standards and Procedures for the Disposition of County-Owned**  
8 **Real Property.** A new Hernando County Code Chapter 2, Article VII, Division 2, to be entitled  
9 “Standards and Procedures for the Disposition of Real Property,” is hereby created to read as  
10 follows:

11           Section 2-170 - Purpose and Scope.

12           This division is adopted to set forth the methods by which the County may sell, lease,  
13 or otherwise dispose of surplus real property or improvements constructed thereon.

14           The provisions of this division are strictly procedural in nature and create no  
15 substantive rights on behalf of any party.

16           Section 2-171 - Declaration of Surplus Property.

17           (a) Any real property owned by the County may be declared as surplus upon:

18                   (1) Presentation of a staff request to the Board of County Commissioners  
19 (‘the Board’) by the County Administrator or the County Administrator’s designee  
20 (collectively ‘the County Administrator’).

1           (2)     Presentation of an interested party's request to the Board by the  
2           County Administrator.     The County Administrator shall include a staff  
3           recommendation with the interested party's request.

4           (3)     The Board's own motion.

5           (b)     When the Board finds that any County-owned real property or improvements  
6           constructed thereon are not needed for County purposes, the Board may declare the  
7           property to be surplus property. Once the property is declared surplus, the property  
8           may be sold, leased, dedicated, donated, or otherwise conveyed to interested parties  
9           as provided for herein.

10          (c)     Declaring property as surplus is a discretionary act of the Board. It is not  
11          subject to appeal.

12          Section 2-172 - Methods of Disposal.

13          Once the real property has been declared surplus, the County Administrator shall  
14          recommend to the Board one of the following methods by which the surplus property  
15          can be alienated.

16          (a)     *Competitive Selection.* In accordance with F.S. § 125.35, the County may  
17          sell, convey or lease any real property through one of the following alternative  
18          competitive selection processes:

19                 (1)     The County can solicit bids to award the property to the highest and  
20                 best bidder for the particular use of the property that the Board determines to be the

1 highest and best. At a minimum, a notice of the solicitation shall be published once  
2 a week for at least two weeks in a newspaper of general circulation, calling for bids  
3 on the property. In the discretion of the County Administrator, the County may  
4 solicit bids by issuing a formal invitation to bid pursuant to the Hernando County  
5 Procurement Ordinance, Hernando County Code Chapter 2, Article V, and the  
6 policies promulgated thereunder. Responses to the solicitation must be received by  
7 the County at least 10 days prior to the Board meeting at which the property is to be  
8 sold, leased, or conveyed.

9 (2) The County may solicit proposals for the disposition of property by  
10 issuing a request for proposals pursuant to the Hernando County Procurement  
11 Ordinance, Hernando County Code Chapter 2, Article V, and the policies  
12 promulgated thereunder.

13 (3) In addition to the utilization of any other means of advertising, the  
14 County shall publish notice of a solicitation of bids, invitation to bid, or a request for  
15 proposals once a week for two weeks in a newspaper of general circulation.

16 (b) *Private Sale.* In accordance with Fla. Stat. § 125.35(2), the County may  
17 negotiate a private sale with an adjacent property owner when the Board finds that  
18 the property is of insufficient size and shape to be issued a permit for any type of  
19 development, or when the value of the property is \$15,000.00 or less as determined  
20 by the Hernando County Property Appraiser, and of use only to the adjacent property

1 owners. The Board may, after sending notice of its intended action to owners of  
2 adjacent property by certified mail, effect a sale and conveyance of the parcel at  
3 private sale without receiving bids or publishing notice; however, if, within 10  
4 working days after receiving such mailed notice, two or more owners of adjacent  
5 property notify the Board of their desire to purchase the parcel, the Board shall accept  
6 sealed bids for the parcel from such property owners.

7 (c) *Property Exchange.* In accordance with Fla. Stat. § 125.37, the County may  
8 exchange surplus real property for another parcel of real property, provided that the  
9 Board has published a notice for at least two weeks in a newspaper of general  
10 circulation, before adoption of a resolution authorizing the exchange. The notice shall  
11 set forth the terms and conditions of the exchange of property.

12 (d) *Sale to Government or Non-Profit.* In accordance with Fla. Stat. § 125.38,  
13 upon a finding by the Board that the property is required for use by another  
14 governmental entity or non-profit entity, the County may sell, transfer, or convey real  
15 property to that entity for such price, whether nominal or otherwise as the Board may  
16 fix. No advertisement is required. The fact of the application being made, the purpose  
17 for which such property is to be used, and the price or rent thereof shall be set out in  
18 a resolution duly adopted by the Board, setting forth the following:

- 19 (1) The facts of the application;
- 20 (2) The purpose for which the property is to be used;

1                   (3)    The purchase price and terms; and

2                   (4)    A provision to be incorporated into the deed which states that in the  
3                   event the property is not used or ceases to be used for the stated purpose, the property  
4                   shall revert to the County which shall thereafter have the right to re-enter and  
5                   repossess the property.

6                   (e)    *Affordable Housing.* In accordance with Fla. Stat. § 125.379, the County may  
7                   sell, transfer, or convey surplus real property to another governmental entity, a non-  
8                   profit entity, or a private entity or person to carry out the provisions of Fla. Stat. Ch.  
9                   420, relating to affordable housing. The County may adopt requirements for such  
10                  conveyances on a case-by-case basis to insure that said property will be permanently  
11                  preserved as affordable housing.

12                  (f)    *Direct Negotiation.* The Board can waive the process of soliciting offers and  
13                  negotiate directly with a company for the sale, conveyance, or leasing of property if  
14                  the company is a participant in a targeted industry, as that term is defined in  
15                  Hernando County Code § 11.5-28. To do so, the Board shall:

16                  (1)    Publish a notice in a newspaper of general circulation in the county  
17                  at least ten days before the board's regular meeting at which the bid or proposal  
18                  waiver will be considered. The notice shall identify the nature of the proposed bid or  
19                  proposal waiver and shall identify the County office where copies of the draft  
20                  resolution providing for the bid or proposal waiver may be reviewed or obtained. The

1 notice shall also provide the time and manner for persons making objections in  
2 writing or otherwise.

3 (2) Consider the proposed waiver at a regularly scheduled Board meeting.  
4 Although the item is not a public hearing, interested members of the public may  
5 comment on the item during general public comment or at the time the item is  
6 presented.

7 (3) Adopt a resolution specifying the basis for the competitive bid waiver  
8 in the event the Board determines to grant the waiver.

9 (h) *Real Estate Broker.* As authorized in Fla. Stat. § 125.35(3), the County may  
10 sell, lease, transfer, or convey real property or improvements thereon through any of  
11 the procedures set forth in subsections (a) - (f) above by using the services of a  
12 licensed real estate broker, as follows:

13 (1) A licensed real estate broker shall be retained in accordance with the  
14 County's procurement policies.

15 (2) Any offer made to a licensed real estate broker for purchase of listed  
16 surplus property shall be brought to the Board in the form of a purchase agreement.  
17 Notice of the Board's intent to consider the purchase agreement shall be provided by  
18 advertisement in a newspaper of general circulation in the County at least ten days  
19 in advance of the Board meeting.

1           (i)     *Public Auction.* As authorized in Fla. Stat. § 125.35(3), the County may sell,  
2           lease, transfer, or convey real property or improvements thereon by using the services  
3           of a public auction house, as follows:

4                     (1)     The services of a public auction house shall be retained in accordance  
5           with the County's procurement policies.

6                     (2)     For any real property dispositions made through public auction, the  
7           County shall establish a base reserve for the property.

8           (j)     Notwithstanding the foregoing, the Board retains its sole and absolute  
9           discretion to reject any and all offers to purchase or lease County-owned property.

10          (k)     Any conveyance of property under this division shall be in accordance with  
11          and subject to all applicable laws, including (1) the terms and conditions of any gift,  
12          trust, grant requirement, deed restriction, bond covenant or other covenants or  
13          restrictions, mortgage, deed of trust, lease, license, use agreement or other agreement  
14          applicable to such property, and (2) the provisions of any applicable federal or state  
15          law, or any regulations promulgated thereunder.

16          Section 2-173 - Treatment of Unsolicited Offers.

17                    The Board of County Commissioners is under no obligation to consider  
18                    unsolicited bids to purchase or lease County-owned property. If the applicable  
19                    property has not yet been determined to be surplus property, the offer shall be  
20                    processed as a request to declare such property to be surplus pursuant to Hernando

1 County Code § 2-171(a)(2). If the Board has determined that the applicable property  
2 is surplus, the Board shall have the discretion to dispose of the applicable property  
3 through one of the methods set forth in Hernando County Code § 2-172.

4 Section 2-174 - Evaluation and Negotiation Criteria.

5 (a) In determining the terms and conditions of the disposal of surplus property,  
6 the Board shall take the following factors into consideration:

7 (1) The appraised value of the real property;

8 (2) The condition of the real property, and the extent to which the party  
9 seeking to acquire the property will have to expend funds to make the property  
10 usable, rezoning issues excluded, or, to bring the property into compliance with the  
11 County Code;

12 (3) The proposed use of the party seeking to acquire the property; and

13 (4) The proposed use of the property for affordable housing.

14 (b) In no event shall the disposition of surplus property violate the County's  
15 Comprehensive Plan or Zoning Code.

16 Section 2-175 - Provisions Specific to the Sale of Property.

17 (a) That all costs of closing, if any, shall be paid by the purchaser in the closing  
18 statement. The purchaser shall reimburse the County for the cost of any required  
19 appraisal. The County shall convey the title to real property by means of a deed of

1 conveyance in the form required by Fla. Stat. § 125.411, as it may be amended from  
2 time to time.

3 (b) All properties shall be sold in an “as is” condition. Prospective purchasers  
4 will be encouraged to fully inspect the property. A 30 day due diligence period may  
5 be agreed to by the Board in appropriate circumstances.

6 (c) The purchaser shall determine whether or not it desires to have title  
7 insurance. The cost of title insurance will be borne by the purchaser. Any ad  
8 valorem taxes, assessment or other lien on the property shall be paid by the  
9 purchaser or title to the property will be accepted with those liens and  
10 encumbrances to which the property is subject.

11 (d) The Board may require a deposit of a portion of the proposed purchase price  
12 as a condition of a contract for sale.

13 Section 2-175 - Exemptions; Conditions.

14 (a) Pursuant to Fla. Stat. § 125.35(1)(b), the provisions of this division do not  
15 apply to:

16 (1) The negotiation of a lease of an airport or seaport facility; or,

17 (2) The modification or extension of an existing lease of real property for  
18 an additional term not to exceed 25 years, where the improved value of the lease has  
19 an appraised value in excess of \$20 million; or,

1           (3)     The negotiation of a lease for a professional sports franchise facility  
2           financed by revenues received pursuant to Fla. Stat. §§ 125.0104 or 212.20.

3           (b)     Pursuant to Fla. Stat. § 125.39, the provisions of this article shall not be  
4           construed to cover the sale or disposition of any land conveyed to the County for a  
5           specific purpose under an instrument containing a reversionary clause whereby said  
6           land shall revert to the grantor or grantors upon failure to use said real property for  
7           such purpose.

8           (c)     The provisions of this division shall not apply to the disposition of tangible  
9           property.

10          (d)     Fla. Stat. § 73.013, as it may be amended from time to time, shall govern the  
11          sale, lease, conveyance, or disposition of any real property acquired by the County  
12          by eminent domain.

13          Section 2-176 - Prohibition of Sale or Lease of County-Owned Property for Less than  
14          Fair Market Value.

15          Except as provided for in Hernando County Code § 2-172(d) and (e) above and  
16          Hernando County Code § 3-33, the Board shall not convey or lease its interest in any  
17          real property or improvements thereon for less than the fair market value of the  
18          County's interest in such real property. Notwithstanding the foregoing, the County  
19          may not sell or convey property that the County accounts for as part of enterprise  
20          fund at less than fair market value.

1           Section 2-177 - Disclosures of Ownership Interests.

2           (a)     Prior to the County's entering into any contract, agreement or lease relating  
3           to the purchase, sale or leasing of real property or improvements thereon by, to or  
4           from the County, all individuals, corporations, partnerships, joint ventures or other  
5           legal entities having any interest of any kind in the property to be purchased, sold or  
6           leased, shall file with the County an affidavit identifying the extent of its ownership  
7           interest in the subject real property. The affidavit of disclosure must be fully  
8           executed and received by the County not later than ten (10) days immediately  
9           preceding the decision of the Board to sell or not sell the property to the purchaser.

10          (b)     Failure by any party to comply with the requirements of subsection (a) shall  
11          render the entire agreement to purchase, sale or lease voidable.

12           Section 2-178 - Prospective Application; Conflict.

13          (a)     The provisions of this division shall have prospective application only and  
14          shall not affect the validity of any contractual obligation existing as of this division's  
15          effective date.

16          (b)     The provisions of this division are neither intended to amend, modify or  
17          supersede any provision of federal or state law, or any regulations promulgated  
18          thereunder, nor are they intended to conflict with any existing contractual obligation,  
19          deed restriction, or grant requirement of the County and shall, insofar as possible, be  
20          interpreted so that no such conflict shall exist. In event of such a conflict, the

1 provisions of an applicable law, regulation, contractual obligation, deed restriction,  
2 or grant requirement will control over a conflicting provision of this division.

3 Section 2-179 - Adoption of Implementing Policies.

4 Pursuant to Hernando County Code § 2-138, the chief procurement officer shall  
5 promulgate administrative policies and procedures implementing this division and  
6 Hernando County Code § 3-33 which shall be forwarded through the County  
7 Administrator for review and approval prior to adoption by the Board.

8 **Section 2. Repeal of Hernando County Code § 2-140.** Hernando County Code § 2-140  
9 is hereby repealed.

10 **Section 3. Amendment of Hernando County Code § 3-33.** Hernando County Code §  
11 3-33, Airport Leases, is amended to read as follows, with underlined matter added and  
12 struck-through matter deleted:

13 (a) Pursuant to the Airport Authority Law of 1945, Fla. Stat. §§ 332.01-332.12,  
14 and Fla. Stat. § 125.35, as they may be amended from time to time, the Board of  
15 County Commissioners (“the Board”) shall administer and dispose of real property  
16 and improvements located within the confines of the Brooksville-Tampa Bay  
17 Regional Airport (“the Airport”). The provisions of this section are strictly  
18 procedural in nature and create no substantive rights on behalf of any party.

19 (b) Definitions. As used in this section:

20 (1) “Lease” shall mean a written agreement between the Board and a

1        tenant, including any leases or subleases, in which the Board agrees to give a tenant  
2        an exclusive right to use, occupy, and control the real property for a specific term and  
3        for consideration, whether such written agreement creates a leasehold interest by an  
4        assignment, extension, modification, amendment, novation, or conversion.

5            (2)    “License” shall mean an agreement, including a license, right of entry,  
6        and use permit, whereby the Board grants a revocable, non-exclusive right to a  
7        person or entity to use Airport property for a specific purpose. It is personal to that  
8        person or entity, does not transfer an interest in real property. For the purposes of  
9        this section, agreements allowing parties utilize a tie-down or a hangar, solely for the  
10       short-term (e.g. month-to-month or year-to-year) storage of aircraft, shall be  
11       considered a license, regardless of the title by which the Board has granted such  
12       authorization.

13       (c)    Leasing authorized. Because airport property other than runways, taxiways,  
14       aids to navigation, parking, driving and landscaping areas and surrounding setbacks  
15       exists to allow development of hangars and other aviation-related facilities and uses,  
16       the Board may lease any portion of the airport not needed for direct aviation use  
17       without first declaring the property surplus. Except as provided for herein, leases  
18       shall be awarded pursuant to the processes set forth in Hernando County Code  
19       Chapter 2, Article VII, Division 2.

20       (d)    Leases and licenses at the Airport shall comply with:

1           (1) All applicable federal, state, and local rules, guidelines, procedures,  
2           deed restrictions, and regulations; and,

3           (2) The regulations and requirements of the Federal Aviation  
4           Administration (“FAA”) or the Florida Department of Transportation (“FDOT”), as  
5           well as the grant assurances associated with any applicable FAA or FDOT grants;  
6           and,

7           (3) The provisions of Hernando County Code Chapter 3, Airports and  
8           Aviation, including but not limited to the Application and Review of Qualifications  
9           of Potential Operators Ordinance, Hernando County Code Chapter 3, Article IV, the  
10           Minimum Operating Standards for the Brooksville-Tampa Bay Regional Airport  
11           Ordinance, Hernando County Code Chapter 3, Article V, and the Rules and  
12           Regulations for the Brooksville-Tampa Bay Regional Airport Ordinance, Hernando  
13           County Code Chapter 3, Article V.

14           (e) *Adherence to Airport Layout Plan (ALP) Required.* The ALP depicts the  
15           entire property of the Airport and identifies existing facilities and plans for future  
16           development. The ALP reflects the existing and proposed allocation of areas of the  
17           Airport to specific operations and support functional usage. No use, occupancy,  
18           construction, modification or improvement that is inconsistent with the Airport’s  
19           FAA-approved ALP shall be allowed. The conversion of any area of the Airport to  
20           a substantially different use than that shown in the approved ALP could adversely

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1 affect the safety, utility or efficiency of the Airport. Only upon a legislative  
2 determination by the Board that a particular construction, modification or  
3 improvement would serve the needs of the Airport, and that a change in  
4 circumstances is evident such that the need for space for such facilities or services  
5 was not anticipated at the time the most recent ALP was submitted to the FAA for  
6 approval, will the Board consider making application to the FAA for approval of a  
7 revision of the ALP pursuant to the request of a tenant or prospective tenant. The  
8 requesting tenant or prospective tenant shall be responsible for all costs associated  
9 the application to the FAA for approval of a revision of the ALP. Nothing contained  
10 in this policy shall require the County to make such an application.

11 (f) Pursuant to Fla. Stat. § 332.08(1)(e), property that has been designated on the  
12 ALP for aeronautical use may be leased for a term not to exceed 50 years. All other  
13 property may be leased for an initial term not to exceed 30 years.

14 ~~---~~(g) All leases at the airport shall be at fair market value rent (FMVR) in  
15 accordance with the regulations, rules and orders of the Federal Aviation Authority  
16 (FAA) applicable to surplus military airports. All leases shall include a provision  
17 whereby the rent is adjusted at least every five (5) years during the life of the lease,  
18 and including any renewals or extensions thereto, to reflect fair market value rent at  
19 time of adjustment. Fair market value rent shall be based upon current appraisal  
20 methodology performed in accordance with the Uniform Standards of Professional

1 Appraisal Practice (USPAP).

2 ---(h) In order to encourage new tenants to locate at the airport, the airport director,  
3 in his or her discretion, may offer leasing incentives as provided herein on all ground  
4 leases at least thirty (30) years in duration and where the tenant pays for the costs of  
5 all improvement (i.e., constructing the building and other improvements). The leasing  
6 incentives for all new non-aeronautical tenants shall be limited to the first five (5)  
7 years of the lease term and shall be based on a sliding scale in which one hundred  
8 (100) percent of fair market value rent is obtained by the fifth year. All leases shall  
9 be subject to review and approval by the board of county commissioners. All leases  
10 on non-approved forms may be subject to further review and approval by the FAA.

11 (i) All proposed leases shall be approved by the County Attorney's Office as to  
12 form and legal sufficiency.

13 (i) Pursuant to Fla. Stat. § 332.08 and Hernando County Code § 2-138, the chief  
14 procurement officer, in consultation with the airport manager, shall promulgate a  
15 policy for the leasing and licensing of Airport land, to be approved by the Board.

16 **Section 4. Severability.** It is declared to be the intent of the Board of County  
17 Commissioners that if any section, subsection, clause, sentence, phrase, or provision of this  
18 ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the  
19 validity of the remaining portions of this ordinance.

1           **Section 5. Inclusion in the Code.** It is the intention of the Board of County Commissioners  
2 of Hernando County, Florida, and it is hereby provided, that the provisions of this Ordinance shall  
3 become and be made a part of the Code of Ordinances of Hernando County, Florida. To this end, the  
4 section of this Ordinance may be renumbered or relettered to accomplish such intention, and that the  
5 word 'ordinance' may be changed to 'section, 'article,' or other appropriate designation.

6           **Section 6. Conflicting Provisions Repealed.** All ordinances or parts of ordinances in  
7 conflict with the provisions of this ordinance are hereby repealed.

8           **Section 7. Effective Date.** This ordinance shall take effect immediately upon receipt of  
9 official acknowledgment from the office of the Secretary of State of Florida that this ordinance has  
10 been filed with said office.

11           **BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF**  
12 **HERNANDO COUNTY** in Regular Session this 8<sup>th</sup> day of August, 2017.



**BOARD OF COUNTY COMMISSIONERS  
HERNANDO COUNTY, FLORIDA**

13  
14  
15  
16  
17  
18 Attest: Marguerite Barbree, Jr.  
19 DONALD C. BARBEE, JR.  
20 Clerk

By: Wayne Dukes  
WAYNE DUKES  
Chairman

21  
22 Approved for Form and Legal Sufficiency  
23  
24  
25 [Signature]  
26 Deputy County Attorney