
From: Bryant, Linda C. <Linda.Bryant@DOS.MyFlorida.com>
Sent: Wednesday, February 24, 2021 9:59 AM
To: Ordinances
Cc: County Ordinances
Subject: [EXT.] -
Attachments: Hernando20210224_Ordinance2021_01_Ack.pdf



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

LAUREL M. LEE
Secretary of State

February 24, 2021

Honorable Doug Chorvat, Jr.
Hernando County Clerk's Office
20 North Main Street, Rm. 362
Brooksville, Florida 34601

Attention: Ms. Darlene Christensen, Deputy Clerk

Dear Mr. Chorvat:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Hernando County Ordinance No. 2021-01, which was filed in this office on February 24, 2021.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb

1 capital financing mechanisms by creating the Hernando County Port Authority (“the Port
2 Authority”); and,

3 WHEREAS, Section 3 of Chapter 65-1618 authorized the Port Authority to:

4 (1) To acquire land, submerged land and water rights by purchase, gift, condemnation
5 or otherwise and to hold and dispose of the same upon such terms and conditions as the governing
6 body shall deem necessary and prudent and to improve such land or lands so acquired in any manner
7 which promotes or has a tendency to promote the public good of Hernando County; and,

8 (2) To construct wharves, docks, platforms, airports, airdromes, hangars, airfields,
9 hydroplane landing stations, trestles, causeways, fills, bridges, channels, tunnels, jetties, ports,
10 warehouses, shipping facilities via land or water or air, ferries, aquariums, radio broadcasting and
11 receiving stations, lighting and water systems, streets, sidewalks, precooling and cold storage plants,
12 and to do all other things incidental and necessary to the enumerated items in order to promote,
13 create, maintain and operate a commercial port for vessels, aircraft, railroad terminals, and facilities
14 for connecting to trunk line railroads; and,

15 (3) To contract; and,

16 (4) To take by eminent domain; and,

17 (5) The right to sue and be sued in the name of its corporate authority or administrative
18 agency; and,

19 (6) To prescribe, fix, maintain and regulate charges, tolls, or rents for the use of any of
20 its facilities by persons or things at the discretion of its governing body; and,

1 (7) To mortgage, pledge, or otherwise encumber any of its property or assets in order to
2 promote, construct, accomplish, maintain and operate any of the public purposes or projects herein
3 enumerated; and,

4 (8) To borrow money and to incur indebtedness by the issuance of revenue bonds or
5 certificates, with or without security, as the port authority may determine; and,

6 (9) To adopt and enforce reasonable rules and regulations or procedures pertaining to the
7 use, acquisition, maintenance, development, operation or disposal of any of the facilities or projects
8 herein enumerated, including the right to grant exclusive or nonexclusive franchises for all goods
9 and services; and,

10 (10) To acquire, do and perform all things herein enumerated separately or jointly or in
11 conjunction with a municipality or other political subdivision of the state whether the same be within
12 or without the territorial limits of Hernando County; and,

13 (11) To employ secretaries, attorneys, engineers, and other technical assistants and
14 employees as the governing body shall determine to be necessary; and,

15 WHEREAS, events subsequent to the Legislature's adoption of Chapter 65-1618 have
16 rendered its above-delineated grants of powers to the Port Authority to be nullities; and,

17 WHEREAS, by enacting Chapter 69-1101, Laws of Florida, the Legislature restricted the
18 Board of County Commissioners' ability to fund the Port Authority's operations to appropriating
19 no more than \$5,000.00 per annum, to be drawn from the "General Road and Bridge Fund of
20 Hernando County" (k/n/a the "Transportation Trust Fund"); and,

1 WHEREAS, the Port Authority operates no facilities the fees for the use of which could be
2 used to fund its operations; and,

3 WHEREAS, the Port Authority has no taxing authority by which it can generate revenue to
4 fund its operations; and,

5 WHEREAS, the Port Authority's lack of funding has prevented it from exercising any of the
6 powers that the Legislature granted to it in Chapter 65-1618, and as a result, it has operated as a
7 purely advisory body since its creation in 1965; and,

8 WHEREAS, this discrepancy between Chapter 65-1618's delegation of sovereign powers to
9 the Port Authority and its practical inability to exercise said powers has caused confusion and
10 dismay amongst the Port Authority's members and the general public; and,

11 WHEREAS, the Board of County Commissioners deems it to be in the public interest to
12 eliminate the above-described discrepancy while maintaining its ability to receive the advice and
13 expertise from the current members of the Port Authority; and,

14 WHEREAS, the 1959 Port Facilities Financing Act, now codified as Fla. Stat. §§ 315.01 to
15 315.18, authorizes boards of county commissioners to act as their respective counties' port
16 authorities.

17 NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY
18 COMMISSIONERS OF HERNANDO COUNTY:

19 **Section 1. Incorporation of Recitals.** The foregoing recitations are hereby incorporated by
20 reference as if fully set forth herein.

1 **Section 2. Creation of Hernando County Waterways Advisory Committee.** A new
2 Article IX of Chapter 7 of the Hernando County Code, to be titled “Hernando County Waterways
3 Advisory Committee,” is hereby created to read as follows:

4 **Hernando County Waterways Advisory Committee**

5 The Hernando County Waterways Advisory Committee (hereinafter “WAC”) is
6 created as a standing committee and an advisory board to assist and make
7 recommendations to the Board of County Commissioners on matters pertaining to
8 Hernando County’s territorial waters.

9 **Membership**

10 (1) The WAC shall consist of five (5) members. The initial members of the WAC
11 shall consist of those persons who are members of the Hernando County Port
12 Authority on the effective date of this ordinance, on which date the initial members’
13 terms as members of the Hernando County Port Authority shall terminate
14 automatically. Thereafter, all appointees shall be residents and registered voters of
15 Hernando County, Florida; and shall serve at the discretion of the Board of County
16 Commissioners.

17 (2) The initial members’ terms shall terminate on the date on which their term
18 on the Hernando County Port Authority would have ended. Thereafter, the WAC’s
19 members shall serve staggered terms and the term of office shall be for four (4)
20 years. If a vacancy occurs prior to the expiration of any member's full term, the

1 Board of County Commissioners shall advertise the position and appoint another
2 candidate accordingly for the remainder of the unexpired term.

3 (3) All members of the WAC shall serve without compensation; none are entitled
4 to pension, retirement, health insurance, or any other benefits from Hernando County
5 for their service on the WAC.

6 (4) The WAC shall meet six (6) times a year. Notice of the WAC's meeting will
7 be published in the same manner as that of the Board of County Commissioners.

8 (5) The WAC shall have a chair and a vice-chair to conduct each meeting.

9 (6) For the purpose of transacting business at any meeting, a majority of WAC
10 members shall constitute a quorum.

11 (7) A member who is seeking re-appointment shall continue to be a voting
12 member for two (2) months beyond the existing term, if necessary, to allow for the
13 finalization of the reappointment by the Board of County Commissioners.

14 (8) The WAC's meetings are open to the public and its members are subject to
15 the Florida Sunshine Law and the Public Records Act.

16 (9) At all meetings of the WAC, each member attending shall be required to cast
17 a vote on all matters requiring action by the WAC. Any member who has a conflict
18 of interest on any issue being voted shall recuse themselves from voting on matters
19 relating to the issue. The member must have a special gain or loss as defined by the
20 Florida Commission on Ethics in order to have a conflict of interest. The member

1 should consult with the County Administrator's Office as to whether a conflict exists.

2 In the event of a conflict, the applicable form promulgated by the Florida
3 Commission on Ethics must be completed and made a part of the minutes. The nature
4 of the conflict and recusal shall be stated prior to the applicable vote.

5 (10) Each member of the WAC shall comply with all applicable provisions of the
6 Code of Ethics for Public Officers and Employees, Fla. Stat. Ch. 112, Pt. III, as it
7 may be amended from time-to-time.

8 **Duties**

9 The WAC shall provide non-binding policy recommendations to the Board of
10 County Commissioners or County staff on all issues that are referred to the WAC for
11 consideration by the Board of County Commissioners, the County Administrator, the
12 County Administrator's designee, including but not limited to:

13 (1) Issues specifically related to the health, safety, maintenance and
14 sustainability of Hernando County's territorial waters. For the purposes of this
15 section, "Hernando County's territorial waters" shall refer to all naturally-occurring
16 bodies of water which are situated within the geographic area described in Fla. Stat.
17 § 7.27, excluding those waters that are situated entirely within the boundaries of a
18 municipal corporation.

19 (2) Issues specifically related to matters concerning the construction,
20 improvement, maintenance, use, operation, and regulation of port and harbor

1 facilities, including but not limited to, any pier, boat dock, boat ramp, wharf, dolphin,
2 weir, boom, breakwater, bulkhead, revetment, riprap, jetty, artificial island, artificial
3 reef, permanent mooring structure, power transmission line, permanently moored
4 floating vessel, piling, aid to navigation, or any other obstacle or obstruction situated
5 within the unincorporated areas of Hernando County.

6 (3) Issues specifically related to the enhancement and protection of the
7 fisheries that are situated within Hernando County's territorial waters, including, but
8 not limited to, the development, use, protection, maintenance, and improvement of
9 fishing areas, foreshores, channels, and coastal resiliency projects.

10 (4) Issues specifically related to the implementation of the Marine
11 Construction Code, Hernando County Code Chapter 8, Article V.

12 (5) Issues specifically related to revision and implementation to Hernando
13 County's Marine Area Strategic Plan and the Marine and Coastal Elements of the
14 Comprehensive Plan.

15 (6) Issues specifically related to the selection, evaluation, and
16 implementation of projects that are to be funded with monies received by Hernando
17 County pursuant to the "Resources and Ecosystems Sustainability, Tourist
18 Opportunities, and Revived Economies of the Gulf Coast States Act of 2012,"
19 commonly referred to as "the RESTORE Act."

1 (7) Issues placed upon an agenda of the WAC by the Board of County
2 Commissioners, the County Administrator, or the County Administrator's designee,
3 upon the request of a majority of the WAC at a prior meeting.

4 (8) Any other issue referred to the WAC by the Board of County
5 Commissioners, the County Administrator, or the County Administrator's designee.

6 **Section 3. Severability.** It is declared to be the intent of the Board of County
7 Commissioners that if any section, subsection, clause, sentence, phrase, or provision of this
8 ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect
9 the validity of the remaining portions of this ordinance.

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

15 **Section 5. Conflicting Provisions Repealed.** All ordinances or parts of ordinances in
16 conflict with the provisions of this ordinance are hereby repealed.

17 **Section 6. Effective Date.** This ordinance shall take effect immediately upon receipt of
18 official acknowledgment from the office of the Secretary of State of Florida that this ordinance has
19 been filed with said office.

1 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
2 HERNANDO COUNTY in Regular Session this 23rd day of February 2021.

3
4 BOARD OF COUNTY COMMISSIONERS
5 HERNANDO COUNTY, FLORIDA

6
7
8 Attest: Heidi Kuppe, P.C.
9 for DOUGLAS CHORVAT, JR.
10 Clerk

By: [Signature]
11 JOHN ALLOCCO
12 Chairman

13 Approved for Form and Legal Sufficiency

14
15 [Signature]
16 Deputy County Attorney
17

