

AGENDA
BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
DECEMBER 13, 2005
Substitute Page

Substitute Item 1 Huckins Yacht Corporation Recommended Consolidated Intent

REQUEST: Consideration of an application for the modification of a five-year sovereignty submerged lands lease to increase the preempted area from 96,327 square feet to 118,887 square feet, more or less, for an existing commercial docking facility.

COUNTY: Duval
 Lease No. 160025562
 Application No. 16-144934-006-EI

APPLICANT: Huckins Yacht Corporation

LOCATION: Section 42, Township 03 South, Range 26 East, in the Ortega River, Class III Waters, within the local jurisdiction of the city of Jacksonville
 Aquatic Preserve: No
 Outstanding Florida Waters: No
 Designated Manatee County: Yes, with an approved manatee protection plan
 Manatee Aggregation Area: No
 Manatee Protection Speed Zone: Yes, 300-foot slow speed shoreline buffer, channel exempt

CONSIDERATION: \$16,711.53, representing the initial lease fee computed at the base rate of \$0.1342 per square foot and including the 25 percent surcharge payment on the additional area. Sales tax will be assessed pursuant to section 212.031, F.S., if applicable. The lease fee may be may be adjusted based on six percent of the annual rental value pursuant to section 18-21.011(a)1, F.A.C.

STAFF REMARKS: In accordance with rules adopted pursuant to sections 373.427(2) and 253.77(2), F.S., the attached "Recommended Consolidated Notice" contains a recommendation for issuance of both the permit required under part IV of chapter 373, F.S., and the authorization to use sovereignty submerged lands under chapter 253, F.S. The Board of Trustees is requested to act on those aspects of the activities which require authorization to use sovereignty submerged lands. If the Board of Trustees approves the request to use sovereignty submerged lands and the activity also qualifies for a permit, the Department of Environmental Protection (DEP) will issue a "Consolidated Notice of Intent to Issue" that will contain general and specific conditions. If the Board of Trustees denies the use of sovereignty submerged lands, whether or not the activity qualifies for a permit, DEP will issue a "Consolidated Notice of Denial."

The lessee maintains a 55-slip commercial docking facility which is used for the staging of yachts, commercial and recreational vessels, used in conjunction with an upland boat repair and boat sales business. The public does not have access to the facility nor are slips at the facility rented to the public. The facility includes a non-water dependent office building

Substitute Item 1, cont.

located within the existing leased premises. The facility, previously a registered grandfathered structure (GSR No. 160048), was brought under lease January 1, 1998. At that time the lease contained 89,511 square feet of preempted area. Subsequent delegated lease modifications in 2002 and 2004 increased the preempted area to 96,327 square feet. The facility was designated as a Clean Marina and a Clean Boatyard on September 20, 2005. Staff most recently inspected the facility on December 6, 2005. No violations of the existing lease or any other DEP rules were identified.

The lessee owns the upland property riparian to the existing docking structures however do not own the upland property adjacent to the proposed expansion. To address this the lessee has maintained a series of upland land leases including the current *Second Amendment To Memorandum Of Lease*, executed on November 5, 2005, which represents an upland leasehold agreement between the lessee and an individual, William M. Hall (the riparian owner of Lots 4 and 5 as depicted on the survey). Lot 4 is riparian to the proposed expansion and a portion of the existing lease area. Pursuant to section 18-21.003(54), F.A.C., the upland lease is satisfactory evidence of the applicant's sufficient upland interest. The original upland leasehold agreement was executed on September 1, 1998 and has been subsequently renewed twice with the current upland lease valid through December 31, 2010. The renewal of the upland lease, such that its term is valid through the term of any submerged lands lease, is necessary in order for the lessee to maintain riparian rights over the area of submerged lands included in this expansion. A special lease condition shall require that the lessee maintain satisfactory evidence of sufficient upland interest over the riparian uplands adjacent to the leased premises in the form of an upland land lease or other acceptable documentation which clearly demonstrates that the lessee has control and interest in the riparian uplands through the tenure of this lease and any subsequent renewals.

The lessee is proposing to expand the existing 96,327-square-foot lease area by an additional 22,560 square feet for a new total preempted area of 118,887 square feet. The lessee proposes to construct a 422-foot-long by 8-foot-wide access pier extending from Lot 4. The access pier will include 10 catwalks of various lengths constituting 18 slips. Placement of the access pier will eliminate 6 existing slips which lie parallel to existing docking structures. The total number of proposed and existing slips will be 67. Sufficient water depths exist within the proposed mooring areas and no dredging or other activities have been proposed. No submerged aquatic or other wetland resources are located within the proposed additional lease area.

This portion of the Ortega River is subject to a manatee protection speed zone extending 300 feet from the shoreline of both banks of the river. The width of the river at the subject site is approximately 1,500 feet and while there is no federally marked channel within the river the most waterward extent of the existing boatyard dock structures do not encroach more than 300 feet toward the traditional channel. The Ortega River is subject to significant boat traffic with five other marinas within the project vicinity providing an approximate total of 650 wet slips. In a letter dated June 27, 2005, the Florida Fish and Wildlife Conservation Commission

Substitute Item 1, cont.

(FFWCC) states that the project appears to be consistent with the Duval County Manatee Protection Plan, and its recommendations regarding protection of manatees are being addressed in the environmental resource permit and as special lease conditions.

The existing lease authorizes a sewage pump-out station, but does not authorize liveaboards or fueling facilities, and this will remain the same in the proposed lease modification. The project was not required to be noticed, pursuant to section 253.115(5)(i), F.S.

A local government comprehensive plan has been adopted for this area pursuant to section 163.3167, F.S.; however, the Department of Community Affairs (DCA) determined that the plan was not in compliance. In accordance with the compliance agreement between DCA and the local government, an amendment has been adopted which brought the plan into compliance. The proposed action is consistent with the adopted plan, as amended, according to a letter received from the City of Jacksonville, dated July 29, 2005.

(See Attachment 1, Pages 1-26)

**RECOMMEND APPROVAL SUBJECT TO THE SPECIAL LEASE CONDITIONS
AND PAYMENT OF \$16,711.53**

Substitute Item 2 **City of Punta Gorda Recommended Consolidated Intent**

REQUEST: Consideration of an application for: (1) an after-the-fact letter of consent for a marginal dock within an existing dedication area; and (2) authorization to modify an existing 10-year sovereignty submerged lands lease by: (a) increasing the number of authorized boat slips at the municipal docking facility from 40 slips to 85 slips; (b) increasing the fee-based preempted area from 75,150 square feet to 143,400 square feet, more or less; (c) providing after-the fact authorization for a portion of a marginal dock; (d) converting the mixed-use of the docking facility to a public municipal marina facility for mooring of recreational and commercial vessels; and (e) modifying and removing special lease conditions.

COUNTY: Charlotte
 Lease No. 080000095
 Dedication No. 25385
 Deed No. 19343
 Application No. 08-0128597-009-EI

APPLICANT: City of Punta Gorda

Substitute Item 2, cont.

LOCATION: Section 06, Township 41 South, Range 23 East, in the Peace River, Class III Waters, within the local jurisdiction of the city of Punta Gorda
Aquatic Preserve: No
Outstanding Florida Waters: No
Designated Manatee County: No, but with an approved Manatee Protection Plan
Manatee Aggregation Area: No
Manatee Protection Speed Zone: Yes, slow speed zone

CONSIDERATION: \$17,256.67 representing: (1) \$15,756.67 as the initial lease fee for the modified facility computed at the base rate of 0.134165 per square foot, discounted 30 percent because of the first-come, first-served nature of the facility, and including the initial 25 percent surcharge payment for the additional area; and (2) \$1,500.00 as an administrative fine for the unauthorized use of sovereignty submerged lands, which has been paid. Sales tax will be assessed pursuant to section 212.031, F.S., if applicable. County discretionary sales surtax will be assessed pursuant to section 212.054, F.S., if applicable. The lease fee may be adjusted based on six percent of the annual rental value pursuant to section 18-21.011(1)(a)1, F.A.C. Fees may be revised upon receipt of an acceptable survey and legal description.

STAFF REMARKS: In accordance with rules adopted pursuant to sections 373.427(2) and 253.77(2), F.S., the attached "Recommended Consolidated Notice" contains a recommendation for issuance of both the permit required under part IV of chapter 373, F.S., and the authorization to use sovereignty submerged lands under chapter 253, F.S. The Board of Trustees is requested to act on those aspects of the activity that require authorization to use sovereignty submerged lands. If the Board of Trustees approves the request to use sovereignty submerged lands and the activity also qualifies for a permit, the Department of Environmental Protection (DEP) will issue a "Consolidated Notice of Intent to Issue" that will contain general and specific conditions. If the Board of Trustees denies the use of sovereignty submerged lands, whether or not the activity qualifies for a permit, DEP will issue a "Consolidated Notice of Denial."

The City is requesting: (1) an after-the-fact letter of consent for a marginal dock within an existing dedication area; and (2) authorization to modify an existing 10-year sovereignty submerged lands lease by: (a) increasing the number of authorized boat slips at the municipal docking facility from 40 slips to 85 slips; (b) increasing the preempted area on which lease fees are assessed from 75,150 square feet to 143,400 square feet, more or less; (c) providing after-the fact authorization for a portion of a marginal dock; (d) converting the mixed-use of the docking facility to a public municipal marina facility for mooring of recreational and commercial vessels; and (e) modifying and removing special lease conditions. Ninety percent of all of the slips will be maintained on an open to the public, first-come, first-served basis and this requirement has been included as a special lease condition. This special lease condition will also require the City to return to the Board of Trustees if the City requests a modification of the lease to change the percent of slips available for rent to the public on a "first-come, first-served" basis.

Substitute Item 2, cont.

The modified lease will also authorize: (1) removal of the existing floating docking structures; (2) removal of the existing fixed concrete dock; and (3) construction of new floating docks with water and electrical service.

BACKGROUND

The original sovereignty, submerged lands lease approved by the Board of Trustees on September 23, 1986, authorized 20 boat slips and the preemption of 272,320 square feet. The former Department of Natural Resources renewed the lease in 1991 pursuant to a delegation of authority. The DEP renewed the lease in 1996 pursuant to a delegation of authority. On June 15, 1995, the Board of Trustees granted conceptual approval to add 80 boat slips and increase the preempted area to 274,320 square feet. The City was required to return to the Board of Trustees for final approval.

On January 25, 2000, the Board of Trustees: (1) authorized a modification to an existing five-year sovereignty submerged lands lease to contain 318,232 square feet, more or less, for the proposed expansion of an existing commercial docking facility in conjunction with the proposed upland mixed use development; (2) granted conceptual authorization for 40 future boat slips within the modified lease area; (3) granted after-the-fact authorization for an existing unauthorized fishing pier extension; (4) authorized the severance of 32,000 cubic yards of sovereign material; and (5) approved a waiver of the severance fee.

The existing lease preempts 318,232 square feet of sovereignty submerged lands. It includes a 40-slip mixed use docking facility preempting 75,150 square feet. A 400-foot-long public fishing pier, navigational channel, and adjacent open water preempts the remaining 243,082 square feet. Pursuant to the 1986 Board of Trustees action, lease fees are currently assessed against only the 75,150 square foot area where there are existing boat slips being rented by the City to the general public. To prevent a mid-water mooring problem within the marina basin, the 243,082 square foot open water area was included in the lease in 1986, and no lease fees are assessed for that area pursuant to the 1986 Board of Trustees action.

The lease is adjacent to an area of submerged lands and filled, formerly submerged, lands deeded by the Board of Trustees to the former State Road Department on July 18, 1947 (Deed No. 19343). The deeded area is currently within the Florida Department of Transportation (FDOT) right-of-way for U.S. Highway 41. The deed requires that the Board of Trustees either consent to or join in any sale, lease or encumbrance of the parcel. As part of the City's 1986 request, the City requested Board of Trustees approval of a 10-year lease from FDOT to the City for a 938-foot-long by 150-foot-long area of uplands and submerged lands within the deed. The 1986 Board of Trustees action included approval of that lease. On April 6, 1995, the City and FDOT entered into a 10-year lease agreement authorizing the City to continue using that area for public marina-related purposes. That lease provides for one 10-year renewal term. DEP approved that lease on December 21, 1993 via a delegation of authority. A special approval condition requires the City to provide DEP documentation of a subsequent lease renewal from FDOT.

Substitute Item 2, cont.

The riparian upland property consists of a 12-acre public park (Laishley Park) that is part of a redevelopment project known as Punta Gorda Harbor. To manage the project, the City established a Community Redevelopment Agency (CRA), pursuant to Chapter 163, F.S. (the Community Redevelopment Act of 1969). The CRA entered into an Agreement for Development and Disposition of Property ("Development Agreement") with a developer, Waltemath Interests, Inc. The Development Agreement granted the developer a right of first refusal to acquire certain upland parcels within the redevelopment project. In 1997, after citizen involvement and public hearings, this Development Agreement was modified so that the CRA would retain ownership of the entire shoreline within the Punta Gorda Harbor project. To date, only two of the parcels have been purchased by the developer: Parcel A for the 60-unit condominium and Parcel D1 for an office building.

The Development Agreement also stated that if the developer constructs 20 slips, those boat slips shall be exclusively available to purchasers of the non-riparian condominium units. The number of these slips was later reduced to 18 after a meeting with DEP staff. While not specifically prohibited by Chapter 18-21, F.A.C., reserving 18 slips for the non-riparian condominium unit purchasers was different from the Board of Trustees' conceptual approval for a docking facility that would be open to the public on a first-come, first-served basis. These 18 reserved slips were considered an ownership-oriented facility, pursuant to Chapter 18-21.004(4)(a), F.A.C., and thus a conservation easement was required for approximately 360 linear feet of shoreline, on city-owned property located between the river and the condominium parcel.

At the time of the January 25, 2000, Board of Trustees approval the CRA was in negotiation with the developer so that the remaining 40 slips would be constructed by the developer to be used in conjunction with the retail development portion of the redevelopment project (Parcel D). The Board of Trustees conceptually approved the 40 future slips and a special lease condition was added that required the City to return to the Board of Trustees for a subsequent lease modification after an agreement was made with the developer. Due to this unique situation, the Board of Trustees approved special lease conditions to address the mixed-use nature of the marina.

On June 5, 2003, the Development Agreement between the CRA and the developer, Waltemath Interests, Inc., was dissolved through a written and signed agreement and is no longer valid. None of the existing slips or any of the proposed additional slips will be reserved or otherwise associated with any private residential upland developments. All of the slips at the docking facility, now known as the Punta Gorda Municipal Marina, will be available to the general public on a first, come first-served basis. The adjacent uplands will be developed with support facilities for the marina such as a harbormaster building, recycling stations, paved parking for an existing boat ramp, fish cleaning stations connected to the sanitary sewer system, and a stormwater treatment system. The uplands will be developed as a public waterfront park.

Substitute Item 2, cont.

The City is requesting that the existing special lease conditions applicable to the former Development Agreement for the nearby condominium be eliminated since these conditions are no longer necessary. The City is also requesting that the use of the property be modified to eliminate the references to condominiums and office complexes that are no longer related to the municipal marina expansion. The lease will be modified to reflect these changes. The City also requests that the use of the property be changed to allow for the mooring of recreational and commercial vessels; commercial vessels will include charter fishing vessels and shrimping vessels. The City has agreed to prohibit the mooring of vessels that are used for gambling as “cruises to nowhere”.

The existing lease includes portions of two areas that are subject to Dedication No. 25385 issued by the Board of Trustees to the City on May 1, 1973. The dedication, encompassing 0.82 acres of sovereignty submerged lands, authorized those areas to be used for public municipal purposes only, under the supervision and management of the City of Punta Gorda, including by not limited to the following: “a municipal complex, parking area facilities for boat servicing, launching, docking and sale of boat fuel, buildings and docks, including sanitary facilities necessary or desirable to construct and operate a marina, along with a carry-out food service facility.”

A November 3, 2005 inspection by DEP staff revealed that a 5-foot-wide by 40-foot-long marginal courtesy dock had been constructed next to the sewage pumpout station at the landward terminus of the fishing pier. Most of the dock was installed within the boundary of the dedication. A small portion of the dock was installed outside of the dedication but within the lease. DEP granted regulatory authorization for the structure pursuant to a wetland resource permit modification (no. 08-0128597-006) issued on January 4, 2001. The regulatory authorization was not linked to the proprietary authorization, and through oversight of the City and DEP, the lease and dedication were not modified to reflect this change. DEP and the City entered into a Consent Order (No. 05-2535-08-SL) on November 17, 2005, which required the City to pay \$1,500.00 in administrative fines. These fines were paid on November 17, 2005.

DEP is of the opinion that the dock is consistent with the dedication and therefore recommends that the Board of Trustees approve a letter of consent for that portion of the existing dock within the existing dedication; the portion of the dock within the lease will be authorized as part of the pending lease modification. The existing dedication does not address fueling facilities, sewage pumpout facilities and liveboards. DEP recommends that the dedication be modified to include a special dedication condition that prohibits fueling facilities and liveboards and authorizes sewage pumpout facilities. The proposed lease modification will continue to: (1) prohibit fueling facilities and liveboards; and (2) authorize sewage pumpout facilities. Additionally, because portions of the dedication overlap the lease, a special approval condition will require the City to submit a revised survey and legal description eliminating this overlap. The revised survey and legal description will also include the following additional areas: (1) at the end of the proposed two main “T” docks to accommodate vessels with wide beams; and (2) between the proposed southern “T” dock and the 25-foot setback from the FDOT right-of-way to ensure that vessels moored in the slips do not extend beyond the lease.

Substitute Item 2, cont.

DEP's Environmental Resource Permit will: (1) prohibit liveaboards and fueling facilities; (2) continue to authorize an existing sewage pumpout facility that was authorized in a modification (File No. 08-0128597-006) to the wetland resource permit issued by the former Department of Environmental Regulation; (3) incorporate the Punta Gorda Municipal Marina Environmental Management Plan and Hurricane Guidelines containing best management practices to prevent potential violations of state water quality standards; (4) authorize construction of a 435 linear foot concrete bulkhead within 18" waterward of the existing bulkhead will also be authorized by the permit, and include a letter of consent as the Board of Trustees authorization pursuant to section 18-21.005(1)(c)5, F.A.C. for this structure; and (5) authorize construction of a stormwater management system to serve 12.53 acres of the entire 14.28-acre site.

The Florida Fish and Wildlife Conservation Commission (FFWCC) on August 12, 2005 provided comments and recommended conditions regarding protection of manatees. The recommended conditions are (1) comply with standard manatee construction for all in-water construction; (2) designate at least one person as a manatee observer when in-water work is being performed; (3) develop a manatee educational program with the assistance of and approval by FFWCC's Imperiled Species Management Section before completion of project construction; and (4) install grating over pipes greater than 8 inches but smaller than 8 feet in diameter with bars or grates no more than 8 inches apart at the accessible end(s) of all pipe reasonably accessible to manatees. These items are included as specific conditions in DEP's Environmental Resource Permit. Comments from Save the Manatee Club (SMC) were requested on 11/02/05, but SMC has declined to comment.

The project was not required to be noticed pursuant to section 253.115(5)(i), F.S. because it is a request to modify an existing sovereignty submerged lands lease. Additionally, the statute does not specifically require noticing for dedications and modifications thereto.

A local government comprehensive plan has been adopted for this area pursuant to section 163.3167, F.S.; however, the Department of Community Affairs (DCA) determined that the plan was not in compliance. In accordance with the compliance agreement between DCA and the local government, an amendment has been adopted which brought the plan into compliance. The project is consistent with the local comprehensive plan according to a May 23, 2005 letter from the City of Punta Gorda.

(See Attachment 2, Pages 1-70)

RECOMMEND APPROVAL OF (1) A LETTER OF CONSENT FOR THE EXISTING MARGINAL DOCK WITHIN THE DEDICATION AREA; (2) A MODIFIED DEDICATION TO INCLUDE A SPECIAL DEDICATION CONDITION; AND (3) A MODIFIED LEASE SUBJECT TO THE SPECIAL APPROVAL CONDITIONS, THE MODIFIED SPECIAL LEASE CONDITIONS, AND PAYMENT OF \$15,756.67

**Substitute Item 3 BOT/City of Holly Hill Exchange Agreement/Easement/Dedication
Amendment/Determination**

REQUEST: Consideration of (1) a determination that pursuant to Article X, section 11 of the Constitution of the State of Florida, the exchange of a 0.87-acre parcel of filled, formerly submerged, sovereignty lands in Volusia County for a 0.78-acre parcel of filled, formerly submerged, lands owned by Holly Hill Associates, Ltd. is in the public interest; (2) an exchange agreement under which the Board of Trustees would convey a 0.87-acre parcel of filled, formerly submerged, sovereignty lands in Volusia County known as Third Street, for a 0.78-acre parcel of filled, formerly submerged, lands owned by Holly Hill Associates, Ltd., immediately adjacent to Second Street; (3) an easement over the parcel received by the Board of Trustees to the City of Holly Hill for development of a public park; and (4) an amendment to the existing dedication on Second Street from road use to park use and release of dedication restriction on Third Street.

COUNTY: Volusia

APPLICANT: City of Holly Hill (City)

LOCATION: Section 05, Township 15 South, Range 33 East

CONSIDERATION: Parcel 1 for Parcel 2 and cash payment of \$254,600 to be deposited in the Internal Improvement Trust Fund.

<u>PARCEL</u>	<u>ACRES</u>	<u>APPRAISED BY</u>		<u>EXCHANGE VALUE</u>	<u>CLOSING DATE</u>
		<u>Hamilton (04/28/05)</u>	<u>Spano (08/23/05)</u>		
(1) Second Street Addition - Holly Hill Associates, LTD.	0.78	\$2,160,600	\$2,150,000	\$2,155,300*	120 Days After
(2) Third Street - BOT	0.87	\$2,409,900	\$2,400,000	\$2,409,900	BOT approval

* Pursuant to 18-2.020(2)(d), F.A.C., this is the average of the two appraisals.

STAFF REMARKS: On January 8, 1958, the Board of Trustees dedicated to the City 0.87 acres of filled formerly submerged sovereignty lands known as Third Street for public street purposes only, with the dedication terminating should the land be used for other than street purposes or for neglect of maintenance.

A request has been received from the City to exchange a 0.78-acre parcel of filled, formerly submerged, land known as Second Street Addition that is owned by Holly Hill Associates, Ltd., (Holly Hill) and is immediately adjacent to Second Street, for the 0.87-acre parcel of state-owned filled, formerly submerged, sovereignty land known as Third Street. Holly Hill plans to develop almost 20 acres north and south of and including the 0.87-acre portion of Third Street on the Halifax River. The project is called Marina Grande on the Halifax, and will include 972 luxury condominium apartment units and retail commercial space. The site is currently improved with an apartment complex. After the proposed exchange, the dedication

Substitute Item 3, cont.

on the 0.87-acre Third Street parcel east of Riverside Drive would be vacated and incorporated into Holly Hill's development plan. The Board of Trustees would grant an easement to the City on the 0.78-acre Second Street Addition received in the exchange and also amend an existing dedication on Second Street. The exchange will consolidate the state's ownership and result in a single parcel having 160 feet of waterfront that will be developed into a public park to accommodate the redevelopment of the area.

Holly Hill has agreed to invest \$1,300,000 toward the improvement of the easement to be granted by the Board of Trustees to the City. Any part of the \$1,300,000 not spent on the Second Street Addition easement will help fund improvements to Sunrise Park as directed by the City, and as required by the Development Agreement between Holly Hill, and the City. The Exchange Agreement between the City, Holly Hill, and the Board of Trustees requires the monies be spent specifically on the Second Street park area or Sunrise Park.

Pursuant to Article X, section 11, of the Florida Constitution, sale of sovereignty lands may be authorized by law, but only when in the interest of the public. Section 253.03, F.S., authorizes such a sale of sovereignty lands. Redevelopment of the Third Street area and conversion of the Second Street and the Second Street Addition to a park will be a significant benefit to the citizens of the City and meet the public interest requirement in the following particulars:

- public observation deck and pier overlooking the Halifax River;
- park fountains, pavers and landscaping;
- public restrooms; and
- associated parking.

Improvements to Sunrise Park will benefit the public interest requirement in the following particulars:

- construction of a fishing pier;
- 20 New Boat Trailer Spaces;
- new Canoe/Kayak Launch;
- new Picnic Pavillions; and
- new Playground Equipment.

This project will also benefit the City in the following respects:

- revitalization of rundown, underutilized area;
- financial benefits, such as increased ad valorem tax revenues;
- public park amenities and dedication of additional land for general public use;
- public use and enjoyment of attractive open space and access to the Halifax River; and
- development will provide job opportunities in the area.

Substitute Item 3, cont.

The Department of Environmental Protection has determined that land exchanges are not subject to the local government planning process. The acquisition of the Second Street Addition parcel from Holly Hill is consistent with section 187.201(9), F.S., the Natural Systems and Recreational Lands section of the State Comprehensive Plan.

(See Attachment 3, Pages 1-79)

RECOMMEND DEFERRAL TO THE JANUARY 31, 2006 CABINET MEETING

Item 4 Flagler County Lease Agreement

REQUEST: Consideration of a request by Flagler County for a 99-year lease agreement on two parcels totaling 117.36 acres, more or less.

COUNTY: Flagler

APPLICANT: Flagler County, Florida (County)

LOCATION: Sections 03 and 04, Township 12 South, Range 30 East

CONSIDERATION: \$300 annual administrative fee per section 18-2.020(8), F.A.C.

STAFF REMARKS: The County currently owns a parcel of land located on the north side of Bunnell along County Road 13, west of the Florida East Coast Railroad and US Highway 1. The Board of Trustees dedicated this land to the County in the 1970s (Dedication Nos. 25117 and 25685). The land is currently used as a public park containing the Flagler County Fairgrounds, and softball and baseball fields.

The County is requesting to lease the Board of Trustees-owned property (Property) on both the east and west sides of the fairgrounds to develop and expand public access which includes building a recreation center with gymnasium, four ball fields with parking, two tennis courts, two basketball courts, and two racquetball courts. The Property was donated to the Board of Trustees by the Tucker family in 1955, and is considered non-conservation lands. Currently, the Property is leased to the Department of Agriculture and Consumer Services, Division of Forestry (DOF), for the Future Farmers of America forest management and education site. DOF has agreed to execute a Release of Lease enabling the Board of Trustees to lease the property directly to the County. The Release of Lease will be handled administratively, under current delegation of authority.

Pursuant to section 18-2.018(3)(a)1., F.A.C., a lease shall not exceed a maximum term of 50 years unless the Board of Trustees determines that any lease term for more than 50 years is in

Item 4, cont.

the public interest. Staff is of the opinion that the standard 50-year lease term is adequate. Prior to 1978, leases were granted for a term of 99 years. At that time, lease terms were reduced to 50 years to reflect the amortized life of most improvements. Since that time, there have been only two instances where the Board of Trustees has approved a lease term over the standard 50 years. On May 12, 1998, the Board of Trustees approved a 65-year term for the lease, sublease and subsublease agreement for the El Centro Espanol de Ybor Building. The Department of State, as lessee, recommended the extended term in the interest of restoring this historic structure, and the City of Tampa (sublessee) and Centro Ybor Partners (subsublessee) provided an analysis showing their investment would not begin providing a return until the last 15 years of the subsublease. Additionally, on April 5, 2005, the Board of Trustees approved an 80-year lease to DGN, Inc. (Miami Jewish Home and Hospital for the Aged, Inc.) in order to meet federal Housing and Urban Development (HUD) requirements.

The County's 2005-2025 Recreation and Open Space Element (Element) was transmitted for interagency review pursuant to chapter 163, F.S. With respect to the subject property, the Element identifies as a priority the property next to the fairgrounds as a prime location for recreational facilities. The population growth in the immediate area has accelerated much faster than projected, and there is extensive public participation and a demand for expanded public recreational facilities in this area. The proposed recreational facilities have been designed to serve the entire population of the County.

A majority of the leases issued to Florida counties are for county recreational facilities and related purposes, and since 1978 the Board of Trustees has authorized standard 50-year terms for these leases noting that counties expend significant funds toward the construction and maintenance of the structures and associated facilities within the lease area. Staff does not believe the proposed request for a 99-year lease term, in this instance, is justified.

The proposed lease will contain a special condition stating the land will be used for public recreation purposes only, or the lease will become null and void.

A local government comprehensive plan has been adopted for this area pursuant to section 163.3167, F.S. The Department of Community Affairs has determined that the plan is in compliance. The proposed action is consistent with the adopted plan according to a letter received from the Flagler County Planning and Zoning Department.

(See Attachment 4, Pages 1-39)

RECOMMEND APPROVAL OF A 50-YEAR LEASE AGREEMENT TO FLAGLER COUNTY

Item 5 City of Jacksonville Option Agreement/Pumpkin Hill Creek Florida Forever Project

REQUEST: Consideration of an option agreement to acquire 184 acres within the Pumpkin Hill Creek Florida Forever project from the City of Jacksonville.

COUNTY: Duval

LOCATION: Sections 29 through 32, Township 01 North, Range 28 East and Section 25, Township 01 North, Range 27 East

CONSIDERATION: \$481,536.18

<u>PARCEL</u>	<u>ACRES</u>	APPRAISED BY	APPROVED	SELLER'S	TRUSTEES'	<u>OPTION DATE</u>
		Crenshaw (01/10/02)	<u>VALUE</u>	<u>PURCHASE PRICE</u>	<u>PURCHASE PRICE</u>	
Verdie Forest	114	\$200,000	\$200,000	\$197,047*	\$88,671.15** (44%)	150 days after BOT Approval
Wood Trust	34	\$480,000	\$480,000	\$480,000*	\$216,000.00 ** (45%)	150 days after BOT Approval
Caldwell Trust	36	\$420,000	\$420,000	\$393,033.41*	\$176,865.03** (42%)	150 days after BOT Approval
	<u>184</u>	<u>\$1,100,000</u>	<u>\$1,100,000</u>	<u>\$1,070,080.41</u>	<u>\$481,536.18</u>	

* Purchased date 8/27/03, 4/25/03 and 4/24/03 respectively

** Board of Trustee's price per acre is \$778, \$6,353 and \$4,913 respectively

STAFF REMARKS: The Pumpkin Hill Creek project is a "B" group project on the Florida Forever Full Fee Project Interim List approved by the Board of Trustees on August 23, 2005. The project contains 22,643 acres, of which 4,175 acres have been acquired or are under agreement to be acquired. After the Board of Trustees approves this agreement, 18,284 acres, or 81 percent of the project, will remain to be acquired.

The City of Jacksonville (City) acquired the three subject properties consisting of 184 acres on August 27, 2003, May 2, 2003, and April 24, 2003, respectively for \$1,055,554. Upon approval of this acquisition, the Board of Trustees will reimburse the City for the lesser of 45 percent of the approved value or 45 percent of the City's purchase price and the Board of Trustees will receive 100 percent title to the property. In no event will the Board of Trustees' purchase price exceed 45 percent of the approved value.

All mortgages and liens will be satisfied at the time of closing. On June 22, 1999, the Board of Trustees approved a staff recommendation to delegate to the Department of Environmental Protection (DEP) the authority to review and evaluate marketability issues as they arise on all chapter 259, F.S., acquisitions and to resolve them appropriately. Therefore, DEP staff will review, evaluate, and implement an appropriate resolution for any title issues that arise prior to closing.

Noted features of the subject properties are as follows:

Verdie Forest:

- This parcel contains a total of 114 gross acres with 58.4 acres of uplands;

Item 5, cont.

- This parcel has two land use designations; the east half is RR (rural residential) with a density range of up to two dwelling units per acre being allowed when community scale potable water and sewer facilities are available and one unit per net acre when the site will be served with on-site water and wastewater facilities. The west half is located within a Low Density Residential category. This has a density of up to seven dwellings; and
- This parcel is currently landlocked.

Wood Trust:

- This parcel is irregular in shape and contains approximately 34 acres with an estimated upland area of 32 acres;
- This parcel has 150 feet of road frontage on the west side of Boney Road;
- This parcel is located within a Rural Residential Land Use Designation with a density range of up to two dwelling units per acre being allowed when community scale potable water and sewer facilities are available; and
- Water and sewer service are provided by private well and septic systems on site.

Caldwell Trust:

- This parcel contains 36 gross acres with an estimated 28 acres of uplands;
- This parcel is located within a Rural Residential Land Use Designation with a density range of up to two dwelling units per acre being allowed when community scale potable water and sewer facilities are available;
- This parcel has approximately 1,048 feet of frontage along the west side of Boney Road; and
- Water and sewer service are provided by private well and septic systems on site.

A title insurance policy, a survey, and an environmental site evaluation will be provided by the purchaser prior to closing.

The growth of the City and its outlying developed areas has inevitably reduced the natural lands in Duval County to a fraction of their original extent. The Pumpkin Hill Creek project will protect one of the larger natural uplands left in the county, helping to maintain the water quality of the Nassau and St. Johns Rivers and their fringing marshes – the foundation of an important fishery – protecting wading bird rookeries, and giving the public in this urban area opportunities to fish, hunt, hike, and canoe.

The Pumpkin Hill Creek project will protect upland buffer to the Nassau River – St. Johns River Marshes Aquatic Preserve, an Outstanding Florida Water that supports a significant commercial and recreational fishery. Besides sandhill, large areas of scrubby flatwoods of diverse quality, wet flatwoods, and salt marsh, the project contains nearly pristine maritime hammock. It provides habitat for several rare species and contains two colonial wading bird rookeries, one of which is used by the federally endangered wood stork. Manatees frequent both the St. Johns and Nassau Rivers and move into tidal creeks, such as Hill Creek and Clapboard Creek, adjacent to the project.

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Item 5, cont.

The Verdie Forest property will be managed by the City as a trailhead for the William F. Sheffield Regional Park. The Wood Trust and Caldwell Trust properties will be managed by DEP's Division of Recreation and Parks as an addition to the Pumpkin Hill Creek Preserve State Park.

This acquisition is consistent with section 187.201(9), F.S., the Natural Systems and Recreational Lands section of the State Comprehensive Plan.

(See Attachment 5, Pages 1-39)

RECOMMEND APPROVAL

2nd Substitute Item 6 **City of Jacksonville Option Agreement/Northeast Florida Timberlands and Watershed Reserve Florida Forever Project**

REQUEST: Consideration of an option agreement to acquire 3,939 acres within the Northeast Florida Timberlands and Watershed Reserve Florida Forever project from the City of Jacksonville.

COUNTY: Duval

LOCATION: Sections 15, 23, 24, 25 through 28, 34, and 35, Township 01 South, Range 24 East

CONSIDERATION: \$7,190,000 (The Department of Agriculture and Consumer Affairs, Division of Forestry (DOF) will contribute \$1,200,000 from inholdings and additions and the Board of Trustees will contribute the remaining balance, which will not exceed \$5,990,000.)

PARCEL	ACRES	APPRAISED BY:		APPROVED VALUE	SELLER'S PURCHASE PRICE	TRUSTEES' PURCHASE PRICE	OPTION DATE
		Ryan (08/30/01)	Rogers (08/30/01)				
Monticello Drug	2,854	\$3,606,000	\$4,030,000	\$4,030,000	\$5,302,022.63	\$4,030,000	150 days after BOT approval
Monticello Land	1,085	\$1,725,000	\$2,010,000	\$2,010,000	\$3,100,000	\$2,010,000	150 days after BOT approval
Timber Value*		(11/18/05) \$2,115,000	(11/18/05) \$2,435,000	\$2,435,000	\$1,150,000	\$1,150,000	150 days after BOT approval
Total	3,939	\$7,446,000	\$8,475,000	\$8,475,000	\$9,552,022.63**	\$7,190,000*** (85%)	

* This reflects the timber value in excess of what was reported in the original appraisals and the loss of income from the timber agreement and timber lease due to the buyout of these agreements.

** Purchase date 7/1/02, 10/11/02 and 12/31/05 respectively

*** Price per acre \$1,825

2nd Substitute Item 6, cont.

STAFF REMARKS: The Northeast Florida Timberlands and Watershed Reserve project is an "A" group project on the Florida Forever Full Fee Project Interim List approved by the Board of Trustees on August 23, 2005. The project contains 143,347 acres, of which 35,964.34 acres have been acquired or are under agreement to be acquired. After the Board of Trustees approves this agreement, 103,443.66 acres, or 72 percent of the project, will remain to be acquired.

All mortgages and liens will be satisfied at the time of closing. The City of Jacksonville (City) has a timber cutting agreement on the Monticello Drug parcel and a timber lease agreement on the Monticello Land parcel in favor of International Paper, Inc. (IP). The City has a contract to purchase, from IP, the agreements for \$1,150,000 resulting in the release of these agreements prior to or at closing. On June 22, 1999, the Board of Trustees approved a staff recommendation to delegate to Department of Environmental Protection (DEP) the authority to review and evaluate marketability issues as they arise on all chapter 259, F.S., acquisitions and to resolve them appropriately. Because these issues were discovered during preliminary due diligence, further research may change the facts and scope of each issue and, therefore, DEP staff will review, evaluate, and implement an appropriate resolution for these and any other title issues that arise prior to closing.

Noted features of subject properties are as follows:

Monticello Drug:

- This parcel consists of 2,854 acres, of which approximately 1,570 acres (55 percent) are classified as uplands;
- There is an Avigation Easement that encumbers approximately 67.5 acres on its southeastern boundary in the immediate vicinity of Whitehouse Field. This easement was considered in the final value;
- A conservation easement was placed on the property when the City acquired it. The easement, which encumbers about 330 acres in the western portion of the property, is in favor of The Monticello Companies, Inc. (f/k/a Monticello Drug Company, Inc.). The most restrictive portion of the conservation easement affects about 75 acres that lie within 300 feet of the western boundary of the site, running north and south. This portion of the easement disallows the establishment, existence, or use of paved roads, buildings, campsites, picnic areas, bike paths, hiking trails or any other improvements, uses or activities except to provide access to the remainder of the site or for forestry operations. The remainder of the conservation easement, which affects 255 acres, between 300 feet and 1,320 feet east of the western boundary line, is less restrictive. This portion of the easement only disallows game hunting and all other recreational use of firearms. The Monticello Companies, Inc., owns the lands to the west and wished to create a buffer along the property line. The appraised value reflects the conservation easement already on the property. The Division of Forestry is aware of the conservation easement and can manage the property under the terms of the easement;

2nd Substitute Item 6, cont.

- This parcel is also encumbered by a timber cutting agreement with IP to harvest timber on approximately 2,710 acres through December 31, 2013. The City has a contract to purchase, from IP, this agreement, and the state will acquire the property free and clear of the timber agreement;
- The property is zoned agriculture according to the Duval County Planning and Development Department; and
- This parcel is adjacent to Cary State Forest and Whitehouse Field.

Monticello Land:

- This parcel consists of 1,085 acres, of which 803 acres (74 percent) are classified as uplands. Public road access is at a point on its northeast corner from Garden Street;
- This parcel is encumbered with a land lease in favor of IP for the purpose of growing and harvesting timber products. This lease has a remaining term of 15.5 years from date of value, ending September 30, 2017. The City has a contract to purchase, from IP, this lease agreement, and the state will acquire the property free and clear of the timber lease agreement;
- The property is zoned agriculture according to the Duval County Planning and Development Department; and
- This parcel abuts the eastern property line of the Monticello Drug parcel.

A title insurance policy, a survey, and an environmental site evaluation will be provided by the purchaser prior to closing.

The three-county corridor of the Northeast Florida Timberlands Watershed and Reserve will create a conservation landscape connecting several high-quality managed areas, including Jennings State Forest, Cecil Field Conservation Corridor, Cary State Forest and Timucuan Ecological and Historic Preserve. The project area will also connect with two military reservations, Camp Blanding and Whitehouse Naval Outlying Field, and is contiguous at the southern end with, Etoniah/Cross Florida Greenway Florida Forever Project. The Greenways and Trails Coordinating Council identified it as a highly important conservation corridor in its statewide analysis. The project's size and diversity makes it desirable for use and management as a state forest.

The property will be managed by DOF as an addition to Cary State Forest.

This acquisition is consistent with section 187.201(9), F.S., the Natural Systems and Recreational Lands section of the State Comprehensive Plan.

(See Attachment 6, Pages 1-42)

RECOMMEND APPROVAL