

AGENDA
BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
JANUARY 31, 2006

Item 1 Minutes

Submittal of the Minutes from the November 8, 2005 and November 22, 2005 Cabinet Meetings.

(See Attachment 1, Pages 1-55)

RECOMMEND APPROVAL

Item 2 BOT Delegations Additions/Revisions

WITHDRAWN FROM THE NOVEMBER 22, 2005 AGENDA

REQUEST: Consideration of additions and revisions to delegations granted by the Board of Trustees.

COUNTY: Statewide

STAFF REMARKS: On September 21, 2004, the Board of Trustees affirmed existing delegations granted to the Department of Environmental Protection (DEP). While executing its duties, it came to the attention of DEP staff that some of the delegations presented at the meeting on September 21, 2004, were incorrect, and revisions were submitted for reaffirmation by the Board of Trustees on February 16, 2005. At that time, DEP was directed to return in a year from the date of the original affirmation to review the delegations and consider recommendations for additional delegations and modifications to existing delegations, where necessary, to address changes in the day-to-day operations of the Board of Trustees and to improve DEP staff's ability to provide quality customer service. Two changes are recommended to the current delegations as follows:

DIR-1(3)(c) and DSL-36 – Deletes, "or agree to convey." This language was added to DEP's internal delegations and was picked up in the delegations affirmed by the Board of Trustees on September 21, 2004. Staff subsequently noticed the addition, which limits authority delegated by the Board of Trustees in 1993. By deleting the words "or agree to convey," DEP staff will be able to execute documents such as sales and exchange contracts approved by the Board of Trustees. Deeds will still require the signature of the Board of Trustees.

DDM1(e) – When amending the delegation for heightened public concern, DEP staff inadvertently omitted the delegation to District Directors to take action on applications when such application is not reasonably expected to result in heightened public concern.

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The following delegations were approved on an item-by-item basis over the years as program specific delegations, but were not included in the delegations reaffirmed by the Board of Trustees on February 16, 2005.

DSL-42 – Adds the delegation to impose fines for upland violations. The Board of Trustees is authorized to administer fines for unauthorized use of state-owned lands pursuant to section 253.04(2), F.S.

DSL-43 – Adds the delegation of authority to approve ground sublease agreements within the University of South Florida’s research park. This delegation was originally approved in a specific request to the Board of Trustees on February 26, 2004, substitute item number 3, but was not included in the delegations reaffirmed by the Board of Trustees on February 16, 2005.

DSL-44 – Adds the delegation of authority to approve sub-subleases and amendments to sub-subleases within the City of Pembroke Pines’ Health-Care Park pursuant to section 253.002(1), F.S. This delegation was originally approved in a specific request to the Board of Trustees on June 24, 2004, substitute item number 8, but was not included in the delegations reaffirmed by the Board of Trustees on February 16, 2005.

DSL-45 – Adds the delegation of authority to approve subleases for Department of Children and Families’ (DCF) cluster facilities pursuant to section 253.002(1), F.S. This delegation was originally approved in a specific request to the Board of Trustees on October 26, 2004, item number 4, but was not included in the delegations reaffirmed by the Board of Trustees on February 16, 2005. Adds “or its successor’s” after DCF. Following the delegation from the Board of Trustees, the Agency for Persons With Disabilities separated from DCF and became a separate agency.

DSL-46 – Adds the delegation of authority to resolve survey discrepancies as identified on the Point Washington State Forest boundary encroachment map dated November 10, 2004, by settlements in lieu of litigation. This delegation was originally approved in a specific request to the Board of Trustees on February 16, 2005, item number 4, but was not included in the delegations reaffirmed by the Board of Trustees on February 16, 2005.

DSL-47 – Adds the delegation of authority to: (1) acquire, fee simple title to all remaining land within the portion of the Save Our Everglades (SOE) CARL project lying south of I-75 on which two bona fide offers have been made by the exercise of the power of eminent domain, pursuant to the provisions of chapters 259.73 and 74, F.S.; and (2) delegate authority to the Secretary of DEP to accomplish the acquisition as described herein through negotiation or condemnation, including the authority to prepare and execute all necessary parcel-specific condemnation resolutions. This

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delegation was originally approved in a specific request to the Board of Trustees on multiple dates which were January 23, 2001, item number 15; February 6, 2001, item number 5; April 10, 2001, item number 6; May 15, 2001, item number 5; September 11, 2001, item number 3; November 27, 2001, item number 6; April 23, 2002, item number 5; March 13, 2003, item number 8; and March 25, 2003, item number 10, but was not included in the delegations reaffirmed by the Board of Trustees on February 16, 2005.

DSL-48 - Adds the delegation of authority to: (1) acquire, by the exercise of the power of eminent domain pursuant to the provisions of chapters 259.73 and 74, F.S., fee simple title to all remaining land (thirteen parcels) within the portion of SOE Florida Forever project (Phases VI and XII) lying south of I-75; including any parcel that has not been settled or sent to eminent domain, even if there is an executed contract that is unable to close. Two bona fide offers have been made on all un-acquired properties; (2) obtain authority to exercise the power of eminent domain concerning claimed prescriptive rights, if any, to all roadways, rights-of-way or primitive roads/dirt farm trails within the project area to include, but not limited to, that certain Miller Boulevard Extension running a mile plus or minus to the north of U.S. 41, along and into the Golden Gate Estates South project area; and (3) delegation authority to the Secretary of DEP, or his designee, to accomplish the acquisitions as described herein through negotiation or condemnation, including authority to prepare and execute all necessary parcel-specific condemnation resolutions. This delegation was originally approved in a specific request to the Board of Trustees on February 11, 2003, item number 3, but was not included in the delegations reaffirmed by the Board of Trustees on February 16, 2005.

DSL-49 - Adds the delegation of authority to: (1) extend offers and approve any contract for the sale and purchase of land pursuant to section 259.041(1), F.S., at \$7,000 over, or up to 125 percent, per parcel of the current appraised value, whichever is greater, when the purchase price per parcel does not exceed \$100,000; (2) recognize and appraise as Rate of Growth Ordinance (ROGO) parcels those parcels that previously qualified for ROGO; and (3) allow payment in lieu of litigation to settle claims by private landowners to lands that appear to be sovereignty submerged lands, such payment not to exceed \$1,000 per parcel for the following Florida Forever projects: Florida Keys Ecosystem, North Key Largo Hammocks, and Coupon Bight/Key Deer. This delegation was originally approved in a specific request to the Board of Trustees on February 16, 2005, item number 8, but was not included in the delegations reaffirmed by the Board of Trustees on February 16, 2005.

On September 21, 2004, the Board of Trustees approved an amendment to item number 12 regarding delegation of authority to take final agency action on an application that is reasonably expected to result in a heightened public concern under section 18-21.0051(4),

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F.A.C. Pursuant to the approval of said amendment, the determination of whether an application triggers the heightened public concern provision, hence requires Board of Trustees' action, shall be made only by the DEP's Secretary or Deputy Secretary. In order to implement this amendment, the Deputy Secretary of Land and Recreation has reviewed all projects with any level of heightened public concern, such as one or more objection letters; potential challenges; negative comments from state or local agencies; controversial location; etc., where those concerns can not be resolved and where the anticipated agency action is to approve the proposed activity. However, this review was not required if the proposed activity requires final agency action by the Board of Trustees based on one of the size thresholds under section 18-21.0051(2), F.A.C., or staff determines that the proposed activity is of heightened public concern.

Under this process a total of 25 projects were reviewed for a determination of whether or not to elevate them to the Board of Trustees under the heightened public concern criteria with the following results:

- Two projects were elevated to and approved by the Board of Trustees - Basil Street and River Wilderness. The River Wilderness project was modified to provide additional public interest as part of this process.
- Four projects were tentatively elevated to the Board of Trustees - Dunes, Il Lugano, Las Olas Marina, and Two Rivers. The original Dunes project was denied by the water management district Board and, hence, did not move forward to the Board of Trustees, however, a revised application has been approved by the district Board and is tentatively scheduled for the February 14, 2006 Board of Trustees' agenda. Il Lugano was subsequently modified by reducing the number of slips to conform to the Florida Fish and Wildlife Conservation Commission's recommendation which eliminated the heightened public concern issue. The Las Olas Marina application to convert 16 public slips at a municipal marina to private water taxi use was withdrawn. The Two Rivers item was resolved by payment of back due lease fees thus resolving the heightened public concern issue therefore agency action will be taken by the DEP District Office.
- One project may be elevated in the future depending on the outcome of the review process:
 - Channel Marker 71 - expansion of a revenue generating dock that is under lease in an otherwise residential neighborhood. The file is currently incomplete.

The review process has been successfully conducted within the limits of chapter 120, F.S., time clock and has had a positive impact on some of the projects reviewed. On that basis, staff recommends that this process continue.

(See Attachment 2, Pages 1-21)

RECOMMEND APPROVAL

Item 3 Nichols Creek Development, LLC Recommended Consolidated Intent

WITHDRAWN FROM THE JUNE 16, 2005 AGENDA

REQUEST: Consideration of an application for (1) a modification of a five-year sovereignty submerged lands lease to (a) reconfigure the lease boundaries; (b) change the use from a proposed 6-slip commercial/industrial docking facility to a 68-slip docking facility with a boat ramp for a private yacht club; and (c) delete Special Lease Condition No. 31; and (2) authorization for the placement of 575 linear feet of bulkhead with riprap at the approximate mean high water line.

COUNTY: Duval
BOT No. 162245689
Application No. 16-147715-008-EI

APPLICANT: Nichols Creek Development, LLC

LOCATION: Section 24, Township 01 South, Range 27 East, in the St. Johns 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, Slow Speed Minimum Wake within 300 feet of shore, Channel Exempt

CONSIDERATION: \$17,322.67 as the initial lease fee computed at the base rate of \$0.1342 per square foot. Sales tax will be assessed pursuant to section 212.031, F.S. Lease fees may be adjusted based on six percent of the annual income pursuant to section 18-21.011(1)(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 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."

On November 16, 2000, the Board of Trustees approved a sovereignty submerged lands lease (No. 162245689) for Hawkins Avenue Corporation (Hawkins Avenue) containing 129,084 square feet, more or less, for a proposed 6-slip commercial/industrial docking facility to be used in conjunction with a proposed upland marine contracting company on the adjacent 84 acres of uplands. Activities on sovereignty submerged lands included the construction of 495

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linear feet of bulkhead at the approximate mean high water line, the dredging of 2.53 acres of river bottom, and the installation of a 350-foot-long by 75-foot-wide concrete dock. The dock was designed to moor six vessels consisting of tugboats and barges. The activities were also permitted under a wetland resource permit (DEP Permit No. 162245689) issued on June 30, 1994 and extended twice. The current expiration date is June 30, 2006.

Hawkins Avenue proposed to dredge 17,205 cubic yards of sovereignty material to create water depths sufficient for mooring tugboats and barges. The dredging operation commenced in June 2004 and approximately 5,129 cubic yards of material was removed from a 420-foot-long by 60-foot-wide nearshore area. The average depth of the dredged area is 7 to 9 feet below mean low water. Hawkins Avenue has stated that the dredging was performed in order to provide sufficient water depths to moor construction barges for the initial groundwork of the industrial project. No further dredging was done and the bulkhead and industrial dock have not been constructed.

In an effort to explore alternative options for the upland development, Hawkins Avenue applied to the City of Jacksonville for a change in Land Use Designation for the 84 acres of upland property from Water Dependent/Water Related to Low Density Residential and a zoning change from Industrial Waterfront to a Planned Unit Development (PUD) named Nichols Creek. Nichols Creek was to consist of 468 units of multiple alternative residential densities including townhomes, condominiums, duplexes/paired villas and single-family homes with an amenity center and related docks. The Jacksonville City Council, under Ordinance 2004-313-E, approved the PUD on May 11, 2004.

On December 13, 2004, Hawkins Avenue and DEP conducted a preapplication meeting to discuss a proposed modification to the wetland resource permit to change the industrial dock to a multi-family dock. It was determined that the proposed project was beyond the scope of a permit modification and that an application for an environmental resource permit would be required.

On January 3, 2005, Hawkins Avenue applied to DEP for an environmental resource permit (ERP) to construct: (1) a 68-slip private residential multi-family docking facility; (2) a boat ramp; and (3) 470 linear feet of bulkhead with riprap, to be used exclusively by the residents of the Nichols Creek Subdivision. No additional dredging was proposed. Concurrently, Hawkins Avenue applied for a modification to the sovereignty submerged lands lease to change the use from a commercial/industrial docking facility to a private residential multi-family docking facility with a boat ramp.

An agenda item for the proposed project was prepared and placed on the June 16, 2005 Board of Trustees' Agenda. Nichols Creek Development, LLC (Nichols Creek Development) purchased the property on May 3, 2005 and applied to DEP to have the existing lease reassigned. Because of the change in ownership of the uplands and possible project modifications, the item was withdrawn from the June 16, 2005 Board of Trustees' Agenda. DEP, under delegation of authority, subsequently renewed the lease for a five-year term and

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modified the lease to reflect the change in upland ownership. The new lease term runs from May 3, 2005 to November 16, 2010. The ERP application remains active pursuant to a waiver of the 90-day time limit under sections 120.569, 120.57, Part IV, 373, and 403.0876, F.S.

On May 26, 2005, Nichols Creek Development received a modification to the PUD from the City of Jacksonville to allow only single-family residences throughout the development as opposed to mixed multi-family and single-family residences. The modification reduces the total of 468 dwelling units with a gross density of 5.5 dwelling units per acre to 140 dwelling units with a gross density of 1.66 dwelling units per acre.

On July 29, 2005, Nichols Creek Development proposed further modifications to the project. Nichols Creek Development now proposes to allocate 595 linear feet of shoreline, out of the 940 linear feet of the subdivision shoreline, to serve as upland interest for a private yacht club. A 595-foot-long by 10-foot-wide strip of the upland riparian shoreline will remain in the ownership of Nichols Creek Development, apart and separate from the subdivision. Nichols Creek Development also proposes to: (1) construct the proposed dock and boat ramp adjoining the 595-foot-long by 10-foot-wide strip of land; (2) reconfigure the existing lease boundaries; (3) change the proposed use of the docking facility and boat ramp from a private residential multi-family docking facility to a private yacht club; and (4) construct 575 linear feet of bulkhead with riprap at the approximate mean high water line.

The strip of land to be allocated for the yacht club will be bordered on its landward side by a parking lot and amenity center that will eventually be conveyed to a homeowners association (HOA) for the subdivision. The parking lot was designed to comply with the City of Jacksonville Municipal Code for marinas. Based on 68 boat slips, the code requires a minimum of 45 parking spaces. The parking lot will provide 46 parking spaces, plus 5 additional extended length parking spaces to accommodate trailers, for a total of 51 parking spaces. The HOA will be obligated to provide access and use of the parking lot and may provide access and use of the amenity center to the users of the yacht club docking facility. The yacht club docking facility will be available on a fee basis to both the residents of the adjacent community, as well as, non-residents from outside the community. The yacht club docking facility will be owned and operated by the lessee or its successors and/or assigns.

Nichols Creek Development will ensure that the members and users of the docking facility will have a continuous right to access and use the parking lot owned by the HOA of the Nichols Creek Subdivision. Nichols Creek Development will not provide any right or privilege to rent or reserve a boat slip to the property owners within the Nichols Creek Subdivision greater than that provided the general public. These requirements will be included as special lease conditions and will be incorporated into the by-laws of the HOA.

The existing lease prohibits fueling facilities and liveaboards but authorizes a sewage pumpout facility. The original wetland resource permit requires that a sewage pumpout facility be

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installed prior to operating the industrial docking facility. Nichols Creek Development does not propose fueling facilities, liveaboards, or a sewage pumpout facility for the yacht club docking facility; therefore, the ERP and modified lease will not require a sewage pumpout facility. The modified lease will continue to prohibit liveaboards and fueling facilities.

Special Lease Condition No. 31 of the existing lease contains six requirements that specifically apply to the use of the lease as an industrial facility and do not apply to the use as a private yacht club. DEP staff recommends that Specific Condition No. 31 be deleted.

The recommendations of Florida Fish and Wildlife Conservation Commission (FWC) regarding the protection of manatees have been addressed in the permit and/or included as special lease conditions. In addition, Duval County has adopted and implemented a manatee protection plan that has been approved by FWC. The FWC has determined that the proposed project complies with the requirements of the plan.

The modified lease request was not required to be noticed due to an exemption for lease modifications, 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 Ordinance 2004-313-E of the Jacksonville City Council.

(See Attachment 3, Pages 1-39)

RECOMMEND APPROVAL SUBJECT TO THE SPECIAL LEASE CONDITIONS AND PAYMENT OF \$17,322.67

Item 4 Volusia County Option Agreement/Waiver/North Peninsula State Park DRP Additions and Inholdings Project

REQUEST: Consideration of (1) an option agreement to acquire 14.9 acres within the North Peninsula State Park Division of Recreation and Parks' Additions and Inholdings project from Volusia County; and (2) waive the use of two appraisals.

COUNTY: Volusia

LOCATION: Section 08, Township 13 South, Range 32 East

Item 4 cont.

CONSIDERATION: \$208,000

<u>PARCEL</u>	<u>ACRES</u>	APPRAISED BY Hamilton (09/22/05)	APPROVED <u>VALUE</u>	SELLER'S PURCHASE <u>PRICE</u>	TRUSTEES' PURCHASE <u>PRICE</u>	OPTION <u>DATE</u>
Volusia	14.9	\$1,500,000	\$1,500,000	\$416,100*	\$208,000** (14%)	120 days after BOT Approval

* Seller purchased the property December 18, 2003.

** \$13,960 per acre

Noted Features of Subject Property:

The property contains approximately 1,395 feet of frontage along John Anderson Highway (eastern property line).
It contains approximately 1,445 feet of frontage along the Intercostals Waterway (western property line).
The property is surrounded by land owned by the State of Florida and is used for the North Peninsula State Park.
The highest and best use of the 14.9 acres (10.8 uplands) is for development with one single-family residence.

STAFF REMARKS: The North Peninsula State Park project has been identified on the Department of Environmental Protections' (DEP) Division of Recreation and Parks (DRP) Additions and Inholdings List. This agreement was negotiated by DEP's Division of State Lands on behalf of DRP under the State Parks Additions and Inholdings Florida Forever program.

A waiver is requested of this requirement for two appraisals when the anticipated value is over \$1 million. Pursuant to chapter 259.041(1), F.S., except for the requirements of subsections (3), (14), and (15), the Board of Trustees may waive any requirements of this section, and may waive any rules adopted pursuant to this section, notwithstanding chapter 120, or may substitute other reasonably prudent procedures, provided the public's interest is reasonably protected.

Prior to the property being appraised by DEP, Volusia County agreed to sell the property to the Board of Trustees for one-half of their purchase price of \$416,100. The public's interest is reasonably protected because the purchase price to the Board of Trustees will be far below the threshold of \$1 million and the cost savings of the second appraisal. For this reason, only one appraisal was completed and the appraisal review was eliminated, however an administrative review was completed of the appraisal by DEP staff.

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 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.

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

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The acquisition of this parcel will ensure that resource based activities continue to be enjoyed by the public. This parcel is very important to the management of this state park because the acquisition unites the park's other parcels to form one contiguous tract. Additionally, the purchase of this parcel enhances the park's connection to the Tomoka Marsh Aquatic Preserve.

The property will be managed by DRP as an addition to the North Peninsula 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 4, Pages 1-19)

RECOMMEND APPROVAL

Item 5 Millstone Institute of Preservation, Inc./Jack Hyatt Conrad Option Agreement/Conservation Easement/Millstone Plantation Florida Forever Project

REQUEST: Consideration of an option agreement to acquire a perpetual conservation easement over 75.50 acres within the Millstone Plantation Florida Forever project from Millstone Institute of Preservation, Inc., and Jack Hyatt Conrad (Life Tenant).

COUNTY: Leon

LOCATION: Section 21, Township 02 North, Range 01 East

CONSIDERATION: \$4,000,000

<u>PARCEL</u>	<u>ACRES</u>	<u>APPRAISED BY:</u>		<u>APPROVED VALUE</u>	<u>SELLER'S PURCHASE PRICE</u>	<u>TRUSTEES' PURCHASE PRICE</u>	<u>OPTION DATE</u>
		<u>Rogers (07/28/05)</u>	<u>Candler (07/28/05)</u>				
Institute	75.50	\$4,850,000	\$5,011,000	\$5,011,000	*	\$4,000,000** (80%)	120 days after BOT approval

* Purchased as part of a larger tract by the Conrad family in the early 1930s.

** Price per acre is \$52,980; Fee Value is \$5,263,000; Conservation Easement Value is 95% of the Fee Value.

Noted Features of Subject Property:

The property includes a portion of Lake McBride in northern Leon County, which enhances the value of the subject's lakefront uplands.

The property consists of 75.5 acres total, of which 33.45 acres are submerged in Lake McBride, 30.87 acres are uplands fronting Lake McBride and the remaining 11.18 acres are interior uplands that are non-contiguous to the lakefront acreage.

The Conservation Easement does not allow for any subdivision of the lake front acreage or any residential, industrial or commercial building construction anywhere on the property.

The Conservation Easement precludes up to ten (10) residential dwelling units that would otherwise be eligible to be permitted.

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The Conservation Easement will be enforceable to and granted by the joint ownership by Millstone Institute of Preservation, Inc., joined by Jack H. Conrad, Life tenant.

The acquisition property is neighbored by upscale residences on acreage tracts, and in the direct line of growth and development, which is expanding northerly from Tallahassee out US 319 (Thomasville Road).

STAFF REMARKS: The Millstone Plantation 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. At the February 16, 2005, Cabinet meeting, the Board of Trustees unanimously approved language directing staff to use discretion rather than limit negotiations to the next six months to secure acquisition of projects moved from the “A” to the “B” list”, including Millstone Plantation. Active negotiations have been underway on this project since the list was approved. The project contains 168.50 acres, of which 93 acres have been acquired or are under agreement to be acquired. After the Board of Trustees approves this agreement, this project will be complete.

There is an out parcel, within the lakefront section of the property, that contains the Millstone Institute of Preservation’s (Institute) historical buildings. This parcel was excluded from the easement because it will be the location of any future construction of buildings related to the Institute. Any new construction on the out parcel would be for facilities intended to further the Institute’s goals and objectives. The Institute is home to many educational activities that include the public, students, and historical organizations.

A very limited agricultural operation, centered mostly on educational pursuits associated with the Institute's programs, has helped to maintain the pastoral and scenic nature of the property. It is eligible for listing on the National Register of Historic Places and the nomination process for that listing is almost complete. Among its historical attributes are evidence of Paleo-Indian occupation, the old mill site, constructed on the creek by Colonel Robert Butler (Andrew Jackson's Surveyor General), and two historic structures. The Native American Ecology Program, conducted by the Center for Aquatic Research and Resource Management at Florida State University, is hosted by the Institute each summer, and an annual Farm Friends Day is held in concert with the Leon County Farm Bureau and Leon County schools. The Dorothy Burt Johnson Antique Lectures and Workshops are also held at the Institute, focusing on early American farming and restoration.

Under the proposed conservation easement, the property will be restricted in perpetuity by the provisions of the easement, a summary of which includes, but is not limited to, the following prohibited uses:

- No new construction of or the placing of new buildings, roads, billboards, third-party advertising signs, or other structures on or above the ground;
- No transfer of any development rights or density credits from the easement property to any other property anywhere;
- No dumping or placing of contaminated soil, trash, liquid or solid waste, or unsightly,

Item 5 cont.

- offensive, or hazardous materials, wastes, or other pollutants;
- No planting of any nuisance exotic plant as listed by the Exotic Pest Plant Council, except pasture grasses approved for domestic use;
- Only pesticides and herbicides approved by the United States Department of Agriculture may be used;
- Only fertilizers approved by the Leon County, Florida, Agricultural Extension Agent and used in accordance with recommendations of the Institute of Food and Agricultural Science at the University of Florida may be used on the easement property;
- No exploration for or extraction of oil or gas, mining, or removal of sand, loam, peat, gravel, rock, soil, or other inorganic material, except in connection with the activities otherwise expressly listed in the easement;
- Both the grantor and the grantee agree that the designated Special Management Areas (SMA) do not show substantial disturbance and have maintained their basic ecological integrity. SMA shall be left intact and non-disturbed, and shall not be subject to the rights reserved to the grantor and the life tenant except as described in the easement; and
- No commercial sale of water extracted from the easement property. No disruption, alteration, pollution, or depletion of existing surface or subsurface water flow or natural water sources, fresh water lakes, or any other water bodies on the easement property or activities on the easement property that would be detrimental to water purity or that could alter natural water level or flow in or over the property.

The proposed conservation easement will allow the owner to retain certain rights. The summary of owner's rights includes, but is not limited to, the following:

- The right for the grantor and the life tenant to sell the property pursuant to the terms of the easement. No conveyance or transfer of the easement property shall modify or terminate the provisions of the easement. Any sale or conveyance will be in accordance with the grantees right to be noticed as specified in the easement;
- The right to use the property for occasional, temporary vehicular parking and the placement of temporary sanitary facilities;
- The right to continue to use, maintain, and repair any permitted structures on the property;
- The right to use property for grazing and livestock as permitted in the easement along with necessary fences, and pens. The right to construct one 1,000 square foot barn;
- The right to conduct archaeological surveying, investigations, and subsurface investigations;
- The right to all water and water-well rights and the right to apply for and construct and continue operation of water wells on the property in accordance with all applicable federal and state laws (no commercial sale of water extracted);
- The right to retain and maintain existing roads and nature trails; the right to construct

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and maintain additional walking and nature trails; the right to construct and maintain access roads and utilities to serve all the grantor's and life tenant's structures on the easement property; and the right to construct and maintain new and additional roads and utilities, provided that they are placed within the corridors identified in the baseline documentation;

- The right to engage in management and ecological restoration activities to foster, preserve, protect, and restore the natural, ecological, scenic, historical, archaeological, wildlife, and plant life features and values of the property;
- The right to conduct reasonable, managed, select, and sustainable silviculture practices and timber harvesting and replanting on the portions of the easement outside any herbaceous or forested wetland area or open water area as delineated in the baseline documentation. Harvesting of cypress trees is prohibited;
- The right to conduct vegetable, fruit, nut, grain, flower, and culinary and medicinal herb cultivation and harvesting within those areas of the easement identified in the easement;
- Retention of fishing rights and the right to control all nuisance fish on the easement property;
- The right to utilize the property for all resource-based recreational activities, including hunting, fishing, nature parks, boating, horseback riding, swimming, hiking, and other related activities; and
- The right to quiet enjoyment.

The proposed conservation easement grants certain rights to the grantee. The summary of grantee's rights includes, but is not limited to, the following:

- The right to monitor compliance with the terms and conditions of the easement; and
- If the grantor intends to sell any of the interest in the easement property, the grantor shall deliver a notice of such intent, and shall, in good faith, afford the grantee an opportunity to negotiate the acquisition of the easement property pursuant to the easement.

All mortgages and liens will be satisfied or subordinated at the time of closing. There is a 20-foot-wide easement along the south line of the lake front parcel in favor of Southeastern Telephone Company. The appraisers considered this easement in their final reconciliation of value. 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 this and any other title issues that arise prior to closing.

Item 5 cont.

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

The property includes significant shoreline on Lake McBride, which has low nutrient and pollutant levels and a nesting pair of bald eagles. Lake McBride is the headwaters of the Lake Lafayette watershed. According to The Nature Conservancy, the lakes of Leon County comprise one of the most important groups of solution lakes in the northern hemisphere. Most of these lakes hold sinkholes that breach the Floridan aquifer so it is important that they are afforded some protection from runoff. The property is a critical recharge area for the Floridan aquifer.

The property also consists of a mosaic of vegetated communities, a deeply incised Seepage Stream, and some open pasture. It falls within the "Red Hills" physiographic region, which consists of pine-dominated uplands of numerous karst sinkholes and lakes. The elevation of the property ranges from 140 to 225 feet above sea level. The Seepage Stream and karst lake serve as breeding, nesting and foraging areas for numerous wildlife species. The lands of Millstone Plantation encompass a number of highly significant archeological sites, many of which are recorded in The Division of Historic Resources Master Site File, representing a continuous pattern of settlement for over 10,000 years.

DEP's Office of Environmental Services will be the monitor for the conservation easement.

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

(See Attachment 5, Pages 1-74)

RECOMMEND APPROVAL

**Item 6 **Barbara Caruthers Brooks Conveyance/Consent/Marjorie Harris Carr
Cross Florida Greenway****

REQUEST: Consideration of (1) a request to sell an 11-acre parcel of state-owned former Cross Florida Barge Canal land, which has been identified as surplus land pursuant to sections 253.7823 and 253.783, F.S., to Barbara Caruthers Brooks; and (2) consent to the applicant's assignment of rights, title and interest in the Contract for Sale and Purchase.

COUNTY: Marion

Item 6 cont.

APPLICANT: Barbara Caruthers Brooks

LOCATION: Section 01, Township 14 South, Range 24 East

CONSIDERATION: \$10,700

<u>PARCEL</u>	<u>ACRES</u>	APPRAISED BY		<u>PURCHASE</u>	<u>CLOSING</u>
		Tompkins <u>(04/19/05)</u>	<u>APPROVED</u> <u>VALUE</u>		
Brooks	11.0*	\$10,700	\$10,700	\$10,700	120 days after BOT approval

* consists of 5.8 acres of uplands and 5.2 acres of wetlands

STAFF REMARKS: Title to this property was vested in the Board of Trustees through a conveyance by The Canal Authority of the State of Florida in 1993. In 1970, the Canal Authority acquired the property through eminent domain from Roy Caruthers and wife, Mamie Jo Caruthers, Anita Brennis, Roxie Allen, Caryl Nelson, Herbert Center, Bennie Harrison, Clara Tarwater, Richard Coleman, and W. T. Coleman, Jr. It is currently managed by the Department of Environmental Protection's (DEP) Office of Greenways and Trails as part of the Marjorie Harris Carr Cross Florida Greenway (CFG). Section 253.7823, F.S., grants DEP the authority to sell surplus former barge canal lands if they are determined to be unnecessary to the effective provision of the type of recreational opportunities and conservation activities for which the greenway was created.

Pursuant to section 253.7823(1), F.S., DEP has identified this parcel as surplus. Location, appraised value, conservation and ecological factors, access problems and difficulty of management were among the criteria considered in determining eligibility for surplus and sale. This parcel is not connected to or located near the main areas of the CFG and, therefore, is not easily managed for conservation or recreation purposes. The site has no electricity available and no independent access. Only half of the property has adequate uplands, the other half of the property is jurisdictional wetlands. According to the appraisal, the potential use of the parcel is a recreational tract such as a camp. The location is approximately 20 miles northeast of the city limits of Ocala. Access is via approximately 18.5 miles of paved roads, an additional one-mile along a graded clay/gravel road and another ¼mile on an un-maintained private, unimproved easement across public land, ending at the private ownership parcel (Brooks) about 850 feet from the subject. Mud Lake provides no measurable recreational amenity. Its bottom is deep silt and is reportedly only about 2-3 feet at its deepest. The parcel is appraised at \$1,700 per acre, for eleven acres, the total is \$18,700; however, the parcel does not have access. The cost of obtaining access from the adjacent property owners (U.S. Forest Service and Brooks) is estimated by the appraiser at \$8,000, giving a final opinion of value of \$10,700.

Item 6 cont.

The applicant, an heir to the original owner from whom the property was taken in 1970, approached the Office of Greenways and Trails in October 2004 with a request that the State of Florida re-convey the property to the Brooks family. Section 253.783, F.S., sets forth specific procedures governing the surplus of former Cross Florida Barge Canal lands. The first part of the process, offering the property to the county in which the property is located, was undertaken in 1993. Marion County elected not to acquire the parcel. In August 2005, pursuant to section 253.783(2)(b), F.S., a legal ad was placed in three area newspapers noticing the original owner or the original owner's heirs of their right to purchase the property at its current appraised value. Barbara Caruthers Brooks, as heir of one of the original owners, is exercising her statutory right to purchase this parcel. Mrs. Brooks is the only heir that responded to the advertisement. Mrs. Brooks is assigning her right, title and interest to her son, Dr. Henry P. Brooks, Jr.

A consideration of the status of the local government comprehensive plan was not made for this item. DEP has determined that surplus land sales are not subject to the local government planning process.

(See Attachment 6, Pages 1-21)

RECOMMEND APPROVAL

Item 7 Usina Conveyance/Murphy Act Parcel

REQUEST: Consideration of a request to sell a 0.22-acre parcel of state-owned land in St. Johns County to Frank D. Usina and John F. Usina.

COUNTY: St. Johns
 Deed No. 31486

APPLICANTS: Frank D. Usina and John F. Usina

LOCATION: Section 29, Township 06 South, Range 30 East

CONSIDERATION: \$500,000 (\$467,500 to be deposited into the Internal Improvement Trust Fund; \$32,500 fee to Dahill International Realty)

<u>PARCEL</u>	<u>ACRES</u>	APPRaised BY <u>Lucus</u> <u>11/02/04</u>	APPROVED <u>VALUE</u>	BUYERS' <u>PURCHASE</u> <u>PRICE</u>	CLOSING <u>DATE</u>
Usina	0.22	\$200,000	\$200,000	\$500,000	120 days after BOT approval

Item 7 cont.

STAFF REMARKS: The Board of Trustees originally acquired the parcel of land pursuant to chapter 18296, 1937 Laws of Florida, known as the Murphy Act. The act provided for statutory forfeiture of lands for nonpayment of taxes. Tax certificates unredeemed as of June 9, 1939 were automatically converted to fee simple title in the name of the state.

Dahill Realty International (Dahill), received a request from Frank D. Usina and John F. Usina (Usinas) to purchase one parcel totaling 0.22 acre of state-owned Murphy Act lands. Dahill Realty was hired under a task with The Department of Environmental Protection (DEP), Division of State Lands (DSL) through the DEP Statewide Real Estate Services contract, to market and sell Murphy Act parcels in St. Johns County. DSL staff working through Dahill negotiated the contract price and terms with the Usinas. The Usinas are interested in acquiring the land for investment purposes and currently own the oceanfront parcel adjacent to the subject property. DSL staff is recommending and DEP's Bureau of Beaches and Coastal Systems concurs, to convey the parcel to the Usinas as this will enable DEP to require an elevated dune walkover from the highway, which will further prevent erosion due to dune deterioration from foot traffic.

The deed conveyed by the Board of Trustees will contain restrictive covenants. The parcel is restricted to not more than one single-family residential dwelling per platted lot, and the Usinas shall build a walkover over the dune system located on the property in order to protect the native vegetation area from erosion due to foot traffic. Any violations of the provisions of the restrictive covenants will cause the parcel to automatically revert to the Board of Trustees. The appraisers took this into consideration in determining the value of the property.

In accordance with section 253.111, F.S., St. Johns County and state agencies were notified of the sale and did not express any interest in the property.

Pursuant to subsection 253.82(2)(b), F.S., land to which title is vested in the Board of Trustees by paragraph (a) shall be treated in the same manner as other nonsovereignty lands owned by the board. However, any parcel of land the title to which is vested in the Board of Trustees pursuant to this subsection which is 10 acres or less in size and has an appraised market value of \$250,000 or less is hereby declared surplus, except for lands determined to be needed for state use, and may be sold in any manner provided by law. DSL staff did not conduct a bid for this parcel due to the benefits of selling to the Usinas.

A consideration of the status of the local government comprehensive plan was not made for this item. DEP has determined that surplus land sales are not subject to the local government planning purposes.

(See Attachment 7, Pages 1-14)

RECOMMEND APPROVAL

Item 8 Sunland I, LLC/Sunland II, LLC Acceptance of Bid/Offer/Consent

REQUEST: Consideration of (1) acceptance of a bid and offer in the amount of \$5,285,000 submitted by Sunland I, LLC, and Sunland II, LLC, for the purchase of a 25.36-acre parcel of state-owned land, more or less, in Tallahassee, Florida; and (2) consent to two partial assignments of contract for sale and purchase.

COUNTY: Leon

APPLICANTS: Sunland I, LLC and Sunland II, LLC

LOCATION: Section 29, Township 01 North, Range 01 East

CONSIDERATION: \$5,285,000 to be deposited into the Department of Children and Family Services' Administrative Trust Fund.

<u>PARCEL</u>	<u>ACRES</u>	<u>APPRAISED BY</u>		<u>MINIMUM ACCEPTABLE BID AMOUNT</u>
		<u>Griffith (08/02/05)</u>	<u>Rogers (07/28/05)</u>	
Sunland	25.36	\$3,864,000 *	3,700,000 *	\$4,500,000

* Value as if the land is vacant, it does not reflect demolition costs

STAFF REMARKS: The Board of Trustees acquired the Sunland Hospital property on August 31, 1970 by virtue of section 253.03, F.S., as amended by chapters 67-269 and 67-2236. Section 253.03(6), F.S., states that, "commencing September 1, 1967, all land held in the name of the state or any of its boards, departments, agencies, or commissions shall be deemed to be vested in the Board of Trustees of the Internal Improvement Trust Fund for the use and benefit by the state." When the Sunland Hospital was acquired, it served as the Intermediate Care Facilities for Mental Retardation. In 1983, the residing staff and program were relocated into community environment areas. The hospital has been vacant subsequent to the relocation of the program.

Pursuant to chapter 2002-397, Laws of Florida, and upon approval by the Board of Trustees, the Department of Environmental Protection (DEP), Division of State Lands (DSL) may sell the Sunland Hospital property, currently under lease to Department of Children and Family Services (DCF). The law states that proceeds from the sale of the property are to be deposited into DCF's Administrative Trust Fund and, subject to legislative appropriation, must be used to construct, renovate, equip, maintain and improve DCF's facilities.

DCF requested that the property be surplus and sold through a public sale. Section 18-2.020(2)(b), F.A.C, states in part, "disposal of surplus land shall be competitively bid except that parcels 5 acres or less in size or with a market value of \$100,000 or less may be sold by

Item 8 cont.

any reasonable means, including open or exclusive listing with real estate sales services, competitive bid, auction, and negotiated direct sales.”

Since April 2003, DSL has aggressively marketed this property. Advertisements were placed in the Tallahassee Democrat, featured on commrex.com national commercial real estate website and the DEP website, and over 18,500 brochures were mailed to commercial real estate agents and developers in the southeast United States. The property was offered for bid by DSL three times. The first offering ran from April 7, 2003, to June 10, 2003, with a minimum bid of \$4,000,000. No bids were received from the first offering and subsequently the property was re-bid from January 5, 2004, to January 27, 2004. The second offering received four bids, two of which were bona fide offers as they were over the \$3,000,000 minimum bid amount. The highest bid of \$4,573,000 was approved by the Board of Trustees on March 9, 2004, along with their approval to surplus this parcel. However, subsequent to this approval, the bidder did not proceed to closing and filed suit requesting that his 10 percent deposit be returned. This litigation was resolved on January 3, 2006, when a final settlement agreement was reached. In order to enhance future marketing of this parcel, DSL took the initiative to apply for a change in the future land use designation and to remove the parcel from the current Development of Regional Impact. This was granted by the City of Tallahassee in June 2005. The third offering ran from November 1, 2005, to December 15, 2005, with a minimum bid of \$4,500,000. Two bids were received, one of which was a bona fide offer over the minimum bid amount and included the required 10 percent deposit.

The bids submitted are as follows:

<u>Name</u>	<u>Amount Bid</u>
Booth Holdings, LLC	\$ 3,000,000
Sunland I, LLC and Sunland II, LLC	\$ 5,285,000

DSL is of the opinion that the sale will be in the state’s best interest and recommends approval of this bid award to Sunland I, LLC and Sunland II, LLC. The developer has advised that the property will be used as a mixed-use development as permitted under the land use and zoning designations and, most likely, will include a multifamily development, office building and hotel.

DSL is requesting the Board of Trustees to approve a partial assignment of Sunland I’s right, title, and interest in 5.19 acres, more or less, to Sunland II, LLC, and a partial assignment of Sunland II’s right, title and interest in the remaining 20.20 acres, more or less, to Sunland I, LLC. These parcels will be conveyed under two separate deeds. The developer is requesting these assignments to divide the original 25.36 acres, more or less, based on the location of the

Item 8 cont.

underground petroleum tanks located on the north side of Phillips Road that are on the 5.19-acre parcel. The proposed legal descriptions for both parcels have been reviewed and approved by DSL's Bureau of Survey and Mapping.

Pursuant to section 18-2.020(7), F.A.C., the property was advertised for three consecutive weeks in the Tallahassee Democrat on the following dates: November 6, 13, and 20, 2005.

In accordance with sections 253.111 and 253.034(6)(f), F.S., Leon County and state agencies were notified of the sale. No interest in purchasing this property was received from Leon County or state agencies. Notice of the availability of the property was also given to the property owners within 500 feet, in accordance with section 253.115, F.S., and no objections were received.

A consideration of the status of the local governmental comprehensive plan was not made for this item. DEP has determined that surplus land sales are not subject to the local government planning process.

(See Attachment 8, Pages 1-49)

RECOMMEND APPROVAL

Item 9 BOT/City of Holly Hill Exchange Agreement/Easement/Dedication Amendment/Determination

DEFERRED FROM THE DECEMBER 13, 2005 AGENDA

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

Item 9 cont.

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 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.

Item 9 cont.

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.

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.

RECOMMEND WITHDRAWAL

Item 10 Palm Beach County Conveyance/Determination Reclaimed Lake Bottom

REQUEST: Consideration of (1) a determination that, pursuant to Article X, section 11 of the Florida Constitution, and section 18-21.004(1)(a), F.A.C., it is in the public interest to convey two parcels containing 889.35 square feet (0.02 acre) and 1,598.32 square feet (0.04 acre), respectively, of state-owned reclaimed lake bottom in Palm Beach County; (2) a determination that, pursuant to section 253.034, F.S., the two parcels are surplus; and (3) conveyance of the two parcels to Palm Beach County.

COUNTY: Palm Beach
Deed Number 31509

APPLICANT: Palm Beach County (County)

LOCATION: Section 07, Township 43 South, Range 37 East

CONSIDERATION: \$720 to be deposited in the Internal Improvement Trust Fund

STAFF REMARKS: The County is in the process of building its Lake Region Water Treatment Plant (Plant). The Plant is a high priority for the Belle Glade, Pahokee and South Bay communities that currently get their drinking water from Lake Okeechobee. Urban, agricultural and back-pumping discharges into Lake Okeechobee have led to a decline in water quality, and all three communities have been cited for water quality violations by the County Health Department. The Plant will utilize the Floridan Aquifer as a source of water. Two initial wells were constructed on the County's Paul Rardin Park (Park). Five additional wells will be constructed on property being purchased from U.S. Sugar Corporation.

Following construction of the first two wells, the County realized that the Park had been acquired by dedication from the Board of Trustees in 1960, and the dedication contains a restriction limiting use of the 7-acre park to public park purposes. The County initially requested that the dedication be modified to permit the installation and operation of the two wells. Department of Environmental Protection (DEP) staff believe that municipal water wells should be owned by the governmental entity responsible for permitting, monitoring, and long-term maintenance, and are recommending that the two parcels be declared surplus and sold to the County.

Pursuant to Article X, section 11, of the Florida Constitution, and section 18-21.004(1)(a), F.A.C., the Board of Trustees may convey sovereignty submerged lands if an evaluation of the benefits and costs of the request shows that conveyance is in the public interest. DEP staff believes that it is in the public interest to convey the well sites to the County for the following reasons:

- The wells have already been installed;
- Municipal wells are more appropriately owned by the entity responsible for permitting, monitoring, and long-term maintenance;
- Municipal water wells, like sewage treatment plants and storm water treatment

Item 10 cont.

- areas, represent a potential source of liability; and
- The wells will improve the public's health, safety and welfare by providing improved public drinking water.

There are no costs or negative impacts associated with conveying the sites to the County.

Pursuant to section 18-2.019, F.A.C., state agencies were notified of availability of the sites, but no agency expressed an interest in either parcel.

Pursuant to section 270.11(1), F.S., the Board of Trustees' mineral, metal and petroleum interest has been reserved. The right of entry with respect to the Board of Trustees' interest in any of the phosphate, minerals, metals and petroleum is automatically released pursuant to section 270.11(2)(b), F.S., because the parcels are less than 20 acres in size; however, the County has requested that the deed specify that such right of entry is released.

Pursuant to section 18-2.020(2)(b), F.A.C., disposal of surplus parcels five acres or less in size and with a market value of \$100,000 or less may be sold by negotiated direct sale. The County is purchasing five additional well sites from U.S. Sugar Corporation for an appraised value of \$12,000/acre. Staff is recommending payment of \$720 (.06 acre x \$12,000/acre) as consideration for the well sites.

A consideration of the status of the local government comprehensive plan was not made for this item. DEP has determined that land conveyances are not subject to the local government planning process.

(See Attachment 10, Pages 1-13)

RECOMMEND APPROVAL

Item 11 Department of Health/Health Care District of Palm Beach County Sublease Agreement

REQUEST: Consideration of a sublease agreement between the Department of Health and the Health Care District of Palm Beach County for an approximately 0.45-acre parcel of state-owned land for public health care purposes.

COUNTY: Palm Beach

APPLICANTS: Department of Health (DOH) and Health Care District of Palm Beach County (District)

Item 11 cont.

LOCATION: Section 21, Township 43 South, Range 43 East

STAFF REMARKS: DOH currently leases a 3.53-acre, more or less, parcel of state-owned land under Board of Trustees' Lease No. 4478. DOH proposes to sublease approximately 0.45-acre to the District for a future office facility. The sublease would run concurrently with DOH's lease, which expires on November 22, 2054.

The authority to approve the sublease has been delegated to the Department of Environmental Protection (DEP); however, when the subject of a delegation involves a controversial matter or an issue of significant public interest, the matter shall be brought before the Board of Trustees for a decision. Public interest centers around a proposal to incorporate DOH's lease area, including the proposed District sublease area, into a 36-acre transit-oriented public/private redevelopment project.

TOD Advisors, LLC (TOD) has submitted a proposal in which the Board of Trustees would convey 3.80 acres to the South Florida Regional Transportation Authority (SFRTA). The 3.80 acres consists of the 3.53-acre DOH lease area and an additional 0.27-acre adjacent parcel that is currently leased to the Department of Management Services (DMS). DMS leases 3.44 acres for its Dimick Building. DMS will retain the remaining 3.17 acres of its lease area. In exchange, DOH will be provided with a replacement site directly across the street from its current location on a wedge-shaped parcel planned to become a Health, Emergency Services and Educational Campus (Campus). The replacement site will be used for the construction of a 91,000-square-foot facility. DOH will be provided with 192 unreserved parking spaces at no cost, to be located in a structured parking facility that TOD has committed to finance and construct. In addition, DOH will be provided space on the Campus to construct up to 50,000 square feet for expansion of a building potentially to be shared with the District. SFRTA proposes to enter into a purchase and sale agreement with TOD for the state land, as well as adjacent county-owned land, which will be subject to an auction to allow opportunity for a third party to outbid TOD and to match the terms associated with the planned development, including providing workforce housing in accordance with policies implemented by Palm Beach County and the City of West Palm Beach.

DEP, DMS, DOH and the Department of Community Affairs (DCA) have all expressed support for a redevelopment project, but only if the County, City or SFRTA will commit, in writing, to insure that funding for the DOH facility will be guaranteed. DOH has existing funding available for the new health facility that will be lost if the sublease is not executed by February 1, 2006. The agencies also required a commitment to provide, among other things, for expansion of both the DMS and DOH facilities, and a value-for-value exchange for the state-owned land. Although some of the conditions have been addressed there are still critical issues that need to be resolved including the following:

- As consideration for the state-owned land, TOD proposes to provide DOH with a

Item 11 cont.

replacement site for the DOH facility and future expansion. It is unclear whether the Board of Trustees would own the replacement sites. Earlier proposals called for a 20-year lease from SFRTA to the Board of Trustees until bonds used for acquisition could be repaid, at which time title would be conveyed to the Board of Trustees. A later revised plan called for the Board of Trustees to obtain title immediately. The current proposal is unclear. An exchange of fee title for leasehold interest is not beneficial to the Board of Trustees; and

- TOD proposes to reimburse the District and County for the \$17.1 million of funding for the DOH facility. This cost is included as consideration to be provided to the Board of Trustees in exchange for title to the state-owned land; however, such reimbursement benefits the District and County, not the Board of Trustees.

The exchange as proposed does not appear to be value-for-value, and it's unclear who will hold title to the DOH replacement sites. The resulting separation of the state facilities precludes any future sharing of office space and parking by DMS and DOH. Both DMS and DOH currently have room for their facilities and any future expansion, and existing funding for the proposed DOH building is available at no cost to the state. There is no written commitment to insure that replacement funding will be provided if that existing funding is lost. DEP staff recommends that the Board of Trustees move forward with approval of the sublease agreement, which will be executed as provided under existing delegation of authority. Execution of the sublease does not preclude the state from participating in any redevelopment projects. DEP and its managing agencies will continue to work together on the proposed economic development project when more specific information can be provided regarding the project and when such efforts adequately incorporate the state's existing uses and provide for compensation for any use of state land.

A local government comprehensive plan has been adopted for this area pursuant to section 163.3167, F.S. DCA determined that the plan was in compliance. The City of West Palm Beach has indicated there is a problem with the need for a waiver regarding parking. DOH believes that the issue is not a long term one because structured parking is intended in the future and the issue can be resolved.

(See Attachment 11, Pages 1-77)

RECOMMEND APPROVAL