

AGENDA
BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
MAY 16, 2006

Item 1 Minutes

Submittal of the Minutes from the April 4, 2006 Cabinet Meeting.

(See Attachment 1, Pages 1-15)

RECOMMEND APPROVAL

Item 2 Martyn/Thrift/Sykes Purchase Agreements/Survey Waiver/Florida Keys Ecosystem Florida Forever Project

REQUEST: Consideration of (1) three purchase agreements to acquire 3.42 acres within the Florida Keys Ecosystem Florida Forever project from Eva Martyn, Carl R. Thrift and Marsha N. Sykes, Trustee; and (2) the authority to waive the survey requirement.

COUNTY: Monroe

LOCATION: Section 30, Township 66 South, Range 29 East; Section 22, Township 61 South, Range 39 East; and Section 24, Township 65 South, Range 33 East

CONSIDERATION: \$920,500

<u>PARCEL</u>	<u>ACRES</u>	APPRAISED BY Marr (04/15/05)	APPROVED <u>VALUE</u>	SELLER'S PURCHASE <u>PRICE</u>	TRUSTEES' PURCHASE <u>PRICE</u>	OPTION <u>DATE</u>
Martyn	0.88	\$288,000	\$288,000	\$100*	\$254,500** (88%)	120 days after BOT approval
<u>PARCEL</u>	<u>ACRES</u>	APPRAISED BY Marr (07/19/05)	APPROVED <u>VALUE</u>	SELLER'S PURCHASE <u>PRICE</u>	TRUSTEES' PURCHASE <u>PRICE</u>	OPTION <u>DATE</u>
Thrift	1.01	\$333,000	\$333,000	\$6,000***	\$333,000**** (100%)	120 days after BOT approval
<u>PARCEL</u>	<u>ACRES</u>	APPRAISED BY Pallardy (06/23/05)	APPROVED <u>VALUE</u>	SELLER'S PURCHASE <u>PRICE</u>	TRUSTEES' PURCHASE <u>PRICE</u>	OPTION <u>DATE</u>
Sykes	1.53	\$333,000	\$333,000	Inherited*****	\$333,000***** (100%)	120 days after BOT approval
Total	3.42		\$920,500		\$920,500	

* Property was purchased on July 28, 1997, the property was purchased at a Sheriffs auction.
** \$289,204 per acre or \$36,000 per ROGO allocation, (8 ROGO allocations).
*** Property was inherited on November 7, 1973.
**** \$329,702 per acre or \$37,000 per ROGO allocation, (9 ROGO allocations).
***** Property was placed in a trust dated 12/27/1990 by Maxine Neff who passed away 12/3/1992.
***** \$217,647 per acre or \$37,000 per ROGO allocation, (9 ROGO allocations).

Item 2, cont.

Noted Features of Subject Property:

Value based on potential sale as ROGO points.

STAFF REMARKS: The Florida Keys Ecosystem project is an “A” group project on the Florida Forever Full Fee Project List approved by the Board of Trustees on February 14, 2006. The project contains 11,854 acres, of which 5,026.06 acres have been acquired or are under agreement to be acquired. If the Board of Trustees approves these agreements, 6,824.52 acres, or 58 percent of the project, will remain to be acquired.

On February 16, 2005, the Board of Trustees delegated authority to the Secretary of the Department of Environmental Protection, or designee, 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 parcels those parcels that previously qualified for Rate of Growth Ordinance designation; and (3) allow payments in lieu of litigation to settle claims by private landowners to lands that appear to be sovereignty lands, such payments not to exceed \$1,000 per parcel.

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.

Title insurance policies and environmental site evaluations will be provided by the purchaser prior to closing. It is the opinion of DEP’s Bureau of Survey and Mapping that the available boundary information is sufficient to reasonably protect the public’s interest and any additional benefit derived from surveys is minimal relative to their cost; therefore, a waiver of the requirement for surveys of the properties is being requested pursuant to section 18-1.005, F.A.C.

The unique pine rocklands and hardwood hammocks of the Florida Keys, forest of West Indian plants that shelter several extremely rare animals, are being lost to the rapid development of the islands. Public acquisition of the Florida Keys Ecosystem project will protect all the significant unprotected hardwood hammocks left in the Keys and many rare plants and animals, including the Lower Keys marsh rabbit and Key deer. It will also help protect the Outstanding Florida Waters of the Keys, the recreational and commercial fisheries, and the reefs around the islands, and give residents and visitors more areas for enjoying the natural beauty of the Keys.

The Martyn property will be managed by the Florida Fish and Wildlife Conservation Commission as an addition to the Florida Keys Wildlife and Environmental Area. The Thrift

**Board of Trustees
Agenda - May 16, 2006
Substitute Page Three**

Item 2, cont.

property will be managed by Monroe County. The Sykes property will be managed by the City of Marathon.

These acquisitions are consistent with section 187.201(9), F.S., the Natural Systems and Recreational Lands section of the State Comprehensive Plan.

(See Attachment 2, Pages 1-44)

RECOMMEND APPROVAL

Substitute Item 3 TNC Charitable Trust Assignment of Option Agreement/Managing Agency Designation/Management Policy Statement Confirmation/ Upper St. Marks River Corridor Florida Forever Project

REQUEST: Consideration of (1) the acceptance of an assignment of option agreement to acquire 2,615.6 acres within the Upper St. Marks River Corridor Florida Forever project from The Nature Conservancy Charitable Trust; (2) designation of the Department of Environmental Protection, Division of Recreation and Parks, as the managing agency; and (3) confirmation of the management policy statement.

COUNTIES: Leon and Jefferson

LOCATION: Sections 02, 11 through 14, 24, and 25, Township 01 South, Range 02 East; and Sections 19, 20 and 30, Township 01 South, Range 03 East

CONSIDERATION: \$10,821,500 (\$10,721,500 for the acquisition; \$100,000 for the purchase of the option agreement)

<u>PARCEL</u>	<u>ACRES</u>	<u>APPRAISED BY</u>		<u>APPROVED</u>	<u>SELLER'S</u>	<u>TRUSTEES'</u>	<u>OPTION</u>
		<u>String</u>	<u>Catlett</u>				
Phase I	2,615.6	(12/12/05)	(12/12/05)	\$11,120,000	unknown*	\$10,821,500** (97%)	06/30/06

* Seller purchased the property as part of a larger tract.
** \$4,137 per acre

Noted Features of Subject Property

- Approximately 1.7 miles of frontage along the south side of US Highway 27 South.
- Approximately 2.17 miles of frontage along the north side of Tram Road.
- Secondary access from Cody Church Road, a county owned clay road.
- Zoned Rural and Agricultural.
- Upland area is 1,229 +/- acres and wetland area is 1,386 +/- acres.
- Current highest and best use is continued use for rural residential.

**Board of Trustees
Agenda - May 16, 2006
Substitute Page Four**

Substitute Item 3, cont.

STAFF REMARKS: The Upper St. Marks River Corridor is an “A” group project on the Florida Forever Full Fee Project List approved by the Board of Trustees on February 14, 2006. The project contains 15,670 acres, including a boundary amendment of 1,671 acres approved by the Acquisition and Restoration Council on April 21, 2006. These acres will be the first to be acquired. If the Board of Trustees approves this agreement, 13,054 acres or 83 percent of the project will remain to be acquired.

Pursuant to a multi-party acquisition agreement entered into between the Department of Environmental Protection (DEP), Division of State Lands (DSL), and The Nature Conservancy, Inc. (TNC), TNC has acquired an option to purchase this property from St. Joe Timberland Company of Delaware L.L.C. (St. Joe Company). If this acquisition is approved, the Board of Trustees will acquire the option from TNC for \$100,000 which represents the agreed upon compensation to TNC for overhead associated with acquiring the option. The assignment of option agreement provides that payment to TNC is contingent upon the Board of Trustees successfully acquiring the property from the owner. The assignment of option agreement further provides that in no event will the purchase price for the option and the purchase price of the property exceed the DSL approved value of the property.

All mortgages and liens will be satisfied at the time of closing. Three oil, gas, and mineral reservations in favor of a third party encumber a total of 79.2 acres were considered by the appraisers. These reservations and the right of entry have been released. The property was appraised as if there was a 60-foot wide access and utility easement in favor of the cut out parcel, a pipeline easement in favor of Florida Gas Transmission. and an easement granted to Tri-County Electric Cooperative; further due diligence has concluded that these three easements are not on the subject property. These conditions were considered by the appraisers in their final reconciliation of value. There is a hunting lease on the property that will be terminated prior to closing. The owner has contacted the lessee to inform them of the expiration of said lease. 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. 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 may arise prior to closing.

A title insurance policy, an environmental site evaluation and, if necessary, an environmental site assessment will be provided by the purchaser prior to closing. The seller will provide a survey prior to closing and the purchaser will reimburse the seller for the cost of the survey.

The Upper St. Marks River Corridor project, a 15,670-acre tract owned entirely by the St. Joe Timberland Company of Delaware, is located in Leon and Jefferson Counties, Florida, and spans 14 miles along the upper reaches of the St. Marks River. The project is defined as Phases 1 and 2, with Phase 1 defined as the northern 2,615.6-acre portion between U.S. 27

Substitute Item 3, cont.

and C.R. 259 and Phase 2 defined as that portion south of C.R. 259. The St. Marks River's origin begins eight miles north of the project area near Interstate 10. The unique topography and geology of this area make it important to the water quality of the St. Marks River and its contribution to Apalachee Bay and the estuary at St. Marks Wildlife Refuge. The St. Marks River contributes to the Floridan Aquifer and the potable water supply of Tallahassee. The natural communities are in good condition. Most of the pine plantations have a relatively natural understory with some wiregrass intact. Neotropical migrant bird species, which are in decline due to loss of habitat, utilize these hardwood hammocks during spring and fall migration as stopover and foraging habitat. Gopher tortoises were observed on site. The Florida black bear, a threatened species, is also known to occur on the project area. The project as a whole currently contains 17 archaeological sites and one structure, a loggers dam, listed in the Florida Master Site File. There is one archaeological site, Otter Spring, located within phase I. There are several sites nearby and adjacent to the boundary. Phase I has not been systematically studied and is expected to contain many more undiscovered sites. Otter Spring is a lithic and ceramic scatter site dating from the Archaic, Weeden Island and Leon-Jefferson Ware periods. This project and its future phases assembled with other public land in the area including the Wacissa/Aucilla River Sinks, St. Marks National Wildlife Refuge, and the Big Bend Seagrasses Aquatic Preserve has the potential to create a protected greenway from Florida's capital city to the Gulf of Mexico.

The landscape connectivity and diversity provided by the Upper St. Marks River Corridor project has the potential for many resource-based public outdoor recreation activities, including canoeing, fishing, hiking, hunting, and wildlife viewing. This project is an excellent recreational trail opportunity, which would help facilitate a possible connection to other conservation and recreation lands in Leon County, such as the J. R. Alford Greenway.

Pursuant to section 259.032(9)(e), F.S., staff recommends that the Board of Trustees designate DEP's Division of Recreation and Parks, as the managing agency for this site. The site will be managed as a unit of the state park system.

Section 259.032(9)(e), F.S., requires that the Board of Trustees, concurrent with its approval of the initial acquisition agreement within a project, "evaluate and amend, as appropriate, the management policy statement for the project as provided by section 259.035, F.S., consistent with the purposes for which the lands are acquired." The management policy statement for this project was included in the 2006 Florida Forever Annual Report adopted by the Board of Trustees on February 14, 2006. Staff recommends that the Board of Trustees confirm the management policy statement as follows:

A primary goal of the Upper St. Marks River Corridor proposal is to buffer the upper St. Marks River from development and preserve its water quality, while also protecting the natural communities in its floodplain. Presumably this would also protect, at least to some extent, the water quality of the first magnitude St.

Substitute Item 3, cont.

Marks Spring just south of the proposal boundary. The proposal encompasses all but 270 acres of the 940-acre Florida Forever First Magnitude Springs project surrounding St. Marks Spring. The Florida black bear, a threatened species, is also known to occur on the project area. Black bears need large contiguous tracts of land in order to ensure a viable breeding population of more than 200 individuals. Special deliberation should be given to this fact when considering the value of this property as conservation lands. Considering the importance of the Upper St. Marks River Corridor as black bear habitat, together with its diverse plant and animal communities and the potential for resource-based public outdoor recreation, acquisition of the tract is warranted.

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 3, Pages 1-48)

RECOMMEND APPROVAL

Item 4 **SWFWMD Acquisition/Overstreet Ranch/Green Swamp Florida Forever Project/Land Acquisition Procedures**

REQUEST: Consideration of (1) authorization to acquire an undivided 50 percent interest in 5,098 acres within the Green Swamp Florida Forever project from the Southwest Florida Water Management District; and (2) acceptance of the updated land acquisition procedures of the Southwest Florida Water Management District as meeting the standards necessary for acquisition by the Board of Trustees pursuant to section 259.041(17), F.S.

COUNTY: Polk

LOCATION: Sections 17 through 20 and 29 through 32, Township 25 South, Range 23 East; and Section 06, Township 26 South, Range 23 East

CONSIDERATION: \$24,369,500 (Board of Trustees' 50 percent share of the purchase price of \$53,739,000, after Polk County's contribution of \$5,000,000)

<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>Roper (03/14/06)</u>	<u>Catlett (03/04/06)</u>				
Overstreet Ranch	5,098*	\$56,000,000	\$57,100,000	\$57,100,000	**	\$24,369,500*** (45.3%****)	06/23/06

Item 4, cont.

- * Appraisal maps indicate 5,098 acres, SWFWMD contract states 5,118 acres and provides for adjustment based on actual acres acquired.
- ** The Property has been under the seller's ownership for decades.
- *** Price per acre is \$10,500 based upon 5,118 acres. Board of Trustees and SWFWMD each pay 50% of purchase price remaining after Polk County's contribution of \$5,000,000.
- **** The total purchase price is 94% of approved value.

Noted Features of Subject Property

The property is located in the "Gator Creek" area of northwest Polk County, approximately 15 miles north of Lakeland, 8 miles east of Zephyrhills, and 10 miles southeast of Dade City.

This location is one mile north of US 98, having 3.7 miles of frontage on SR 471.

The property comprises approximately 67.4% uplands including 1,600+/- acres of pine flatwoods and 1,000+/- acres of pasture/farmland, and 32.6% jurisdictional wetlands including lakes formed by reclamation of limestone mining areas which comprised approximately 130 acres.

There are no sovereignty submerged lands on the property.

The property was valued on a price per gross acre basis, which took into account the 190-foot-wide power-line easement along the east boundary of the parcel. There is timber on the tract as well as limestone mineral reserves; however, these do not contribute additional value because the property has development potential.

The property has the same zoning and land use allowing agricultural and rural residential development.

There is a pending contract on the property by a private developer at the same per acre price which will become null and void upon the BOT/ SWFWMD purchase.

STAFF REMARKS: The Green Swamp Florida Forever project is an "A" group project on the Florida Forever Full Fee Project List approved by the Board of Trustees on February 14, 2006. The project contains 279,224 acres, of which 85,316 acres have been acquired or are under agreement to be acquired. If the Board of Trustees approves this agreement, 188,810 acres, or 68 percent of the project, will remain to be acquired.

The Southwest Florida Water Management District (District) has taken the lead in order to facilitate the acquisition of this joint project. The District and the Board of Trustees entered into an Acquisition and Ownership Agreement (161 Agreement) for the project in 1997 and updated the 161 Agreement through an amendment on May 3, 2006. The original 161 Agreement was amended to update the following significant particulars: (1) provide for acquisition in fee simple; (2) include Polk County's monetary contribution of \$5,000,000; (3) include a revised map of the Overstreet Parcel; (4) designation of the new managing agency; and (5) updated District land acquisition procedures. The amended 161 Agreement will allow the District to acquire the Overstreet Ranch (Ranch) in accordance with section 259.041(17), F.S., using the procedures set out in section 373.139, F.S.

Section 259.041(17), F.S., provides that lands to be jointly owned by the Board of Trustees and a water management district and acquired under the provisions of the water management district's land acquisition law, section 373.139, F.S., may be deemed to meet the standards necessary for ownership by the Board of Trustees. In addition, section 259.041(1), F.S., allows the Board of Trustees to substitute for its own procedures other reasonably prudent procedures so long as it believes the public's interest is being reasonably protected.

Item 4, cont.

DEP staff has completed a review of the District's updated land acquisition procedures and believes them to be reasonably prudent and recommends that the procedures be substituted for the procedures provided for in section 259.041, F.S., and section 18-1, F.A.C., to allow the District to acquire any lands to be held jointly by the District and the Board of Trustees. In 1995, the Board of Trustees accepted the land acquisition procedures of the District. Subsequent to this, the District's procedures were amended twice; on September 30, 1998, and on September 23, 2003.

On August 23, 2005, C. M. Overstreet (Overstreet) entered into a contract for the sale and purchase of the Ranch with Jordyn Holdings VII, LLC (Jordyn). In this contract it was stated that Overstreet is negotiating with governmental entities regarding the sale of the property and that the seller wishes to continue such negotiations. The parties agreed that if the seller, on or before a date ten months from the effective date on the contract (August 23, 2005), enters into an agreement and closes a sale of the full fee title for a sale price of \$10,500 per acre based upon the survey, the agreement with Jordyn would terminate. The ten-month date falls on or about June 23, 2006.

The District obtained appraisals, negotiated, and entered into a purchase and sale agreement with Overstreet to acquire this property. The purchase price for the parcel is \$53,739,000, to be adjusted at closing based on the final survey. The Board of Trustees and the District will each obtain an undivided 50 percent interest in the parcel. Polk County (County) will be contributing \$5,000,000, or 9.3 percent towards the purchase of the property, allocated equally toward the Board of Trustees and District purchases. Thus, the final price to the Board of Trustees is \$24,369,500.

On April 19, 2006, the County Board of County Commissioners approved an interlocal agreement with the District by which the County would contribute \$5,000,000 from the County's Environmental Land Acquisition Program toward the District's purchase of the Ranch.

There are approximately 327 acres of District-owned property between the north boundary of the Ranch and south of the Withlacoochee River. DEP's Division of Recreation and Parks (DRP) requested that the District provide access to the river as part of the management agreement through a lease over all, or a portion of, this parcel. The District's Governing Board has given the District staff the authority to lease all, or part of, the District-owned land to the north in order to provide river access as part of the state park management unit.

Excluded from the acquisition is a 60-acre tract of land located on the north portion of the property that is owned by Mark F. and Carol R. Overstreet. As part of the negotiations, Mark F. and Carol R. Overstreet agreed to convey a restrictive easement that: (1) prohibits the subdivision of the property into more than two parcels; and (2) restricts the number of residences constructed on the property. In return, the District agreed to provide an easement

Item 4, cont.

for ingress and egress to the seller's residence over an existing lime rock road running parallel with the southern boundary of the 60-acre parcel. Currently, one single-family residential improvement exists on the property. Other parcels sold or otherwise conveyed by Mark F. and Carol R. Overstreet shall no longer have the benefit of the access provided by this Ingress/Egress Easement. Both the restrictive easement, and the ingress and egress easement, are exhibits to the Purchase and Sale Agreement between the District and Overstreet.

Improvements on the property include: circulation roads, perimeter and interior fencing, wood-frame hunting camps, and several wood-framed, metal roofed shed structures associated with ranch activities. Electrical power has been extended to the hunting camps and sheds. The hunting camps and sheds are not owned by Overstreet and are not part of the sale of the Ranch. The hunting camps and sheds will be removed from the property prior to closing. There is an existing hunting lease on the property that will be terminated prior to closing. A bunk house shop building, located northwest of the hay barn in Section 29 is not included in the sale of the Ranch. Pursuant to a License Agreement with Overstreet and the District, Overstreet shall have up to one year from the date of closing to remove his cattle from the Ranch. Any cattle remaining on the property at termination or expiration of the License Agreement will become the property of the Board of Trustees and the District. Pursuant to the purchase and sale agreement, Overstreet may occupy and use the bunk house shop building during the year in which the cattle remain on the property.

A title insurance policy, a survey, and an environmental site evaluation will be provided by the District prior to closing. The District shall be reimbursed 50 percent of pre-acquisition and closing related costs.

The mosaic of cypress swamps, pine forests, and pastures known as the Green Swamp is a vital part of the water supply of Central and Southwest Florida. The water and natural resource values of the Green Swamp have made it a high priority for protection through public acquisition by the State, District, and County. The Green Swamp contains the headwaters of four major rivers: the Withlacoochee, Hillsborough, Peace, and Oklawaha. Its vast expanse of riverine floodplain swamp, combined with equally vast areas of cypress swamps, marsh, and wet prairie systems make the Green Swamp region a critical natural surface water retention area. The protection of these important floodplains serves to protect urbanized areas from flooding during major storm events.

The four major headwater river channels and tributaries of the Green Swamp play a vital role in conveying water to significant downstream natural systems. Public ownership of the Green Swamp serves to protect these important upstream reaches of the Withlacoochee and Hillsborough Rivers and the volumes of freshwater which they contribute to Tampa Bay, Withlacoochee Bay, Tsala Apopka Lake, and many other offsite natural systems and habitats. In addition to the natural values, the District owns over 110,500 acres of land that is used for a variety of recreational activities. Acquisition of this Ranch creates the potential for connecting this Ranch to the adjacent District property.

**Board of Trustees
Agenda - May 16, 2006
Substitute Page Ten**

Item 4, cont.

Because Green Swamp has the highest groundwater elevation in the peninsula, it is important for maintaining the flow of water from the Floridan Aquifer. Preservation, by acquiring the properties located within the area, will protect the Floridan Aquifer and the headwaters of several rivers and preserve a large area for wildlife.

On April 21, 2006, the Acquisition and Restoration Council amended the Green Swamp Management Prospectus to identify DRP as the manager of this Ranch. DRP is prepared to manage the Ranch as a unit of the state park system following its acquisition.

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 1-111)

RECOMMEND APPROVAL

Substitute Item 5 Doerr/Nobel Option Agreements/Survey Waiver/Exceed Approved Value/Belle Meade Florida Forever Project

REQUEST: Consideration of (1) two option agreements to acquire 132.2 acres within the Belle Meade Florida Forever project from Vincent D. Doerr and Bernard J. and Helen R. Nobel; (2) the authority to waive the survey requirement; and (3) the authority to exceed the Division of State Lands-approved value.

COUNTY: Collier

LOCATION: Section 23, Township 51 South, Range 27 East

CONSIDERATION: \$3,229,000 (The South Florida Water Management District has agreed to pay \$75,000 for all attorneys' fees.)

<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>Reeve (01/04/06)</u>	<u>Stewart (02/06/06)</u>				
Doerr	111.1	\$2,600,000	\$2,654,000	\$2,654,000	\$157,500*	\$2,654,000** (100%)	06/30/06
		<u>APPRAISED BY</u>		<u>APPROVED VALUE</u>	<u>SELLER'S PURCHASE PRICE</u>	<u>TRUSTEES' PURCHASE PRICE</u>	<u>OPTION DATE</u>
		<u>Reeve (01/04/06)</u>					
Nobel	21.1	\$575,000		\$575,000	\$37,500***	\$575,000**** (100%)	06/30/06
TOTAL	132.2			\$3,229,000		\$3,229,000	

**Board of Trustees
Agenda - May 16, 2006
Substitute Page Eleven**

Substitute Item 5, cont.

- * Property was purchased on September 16, 1994 and April 22, 1997.
- ** Price per acre is \$23,500 for the land, improvements contribute additional value.
- *** Property was purchased on March 23, 1997 and April 21, 1997.
- **** Price per acre is \$23,000 for the land, improvements contribute additional value.

Noted Features of Subject Property

These properties are located in the most southeastern portion of the Belle Meade project area and are very rural; approximately a 20 mile drive from Naples.

The current zoning for both parcels is Agricultural.

Doerr contains 111.1 total acres (3.5% uplands and 96% wetlands). Nobel contains 21.1 total acres (5% uplands and 95% wetlands).

Both parcels have outstanding mineral rights reserved to Barron Collier; however, the appraiser's opinion is there is no affect on value.

Land values for both parcels were based on a price per gross acre. Each parcel contains some improvements that contribute to the value.

Owners' obtained an appraisal by Durrance & Associates, P.A. dated October 14, 2005 that reflected values of \$3,675,000 for Doerr and \$700,000 for Nobel.

STAFF REMARKS: The Belle Meade Florida Forever project is a "B" group project on the Florida Forever Full Fee Project List approved by the Board of Trustees on February 14, 2006. Both the Doerr and Nobel parcels were in negotiation prior to being moved to the "B" list. The project contains 28,506 acres, of which 19,151 acres have been acquired or are under agreement to be acquired. If the Board of Trustees approves this agreement, 9,222.8 acres, or 32 percent of the project, will remain to be acquired.

In the summer of 2005, Doerr and Nobel filed an inverse condemnation action against Collier County (County). They allege the County took the access to their property when the County entered into an agreement in 2003 with the Board of Trustees and the South Florida Water Management District (SFWMD). Pursuant to the agreement, the County vacated certain roads in Southern Golden Gate Estates that Doerr and Nobel claim were the only access to their property. The County filed a third party complaint against the Board of Trustees and SFWMD. The County seeks to have the Board of Trustees and SFWMD assist in the defense of the underlying action. The Doerr and Nobel lawsuit against the County is without merit because the 2003 agreement and Florida law provide access to landowners in Belle Meade, including Doerr and Nobel. The Everglades restoration project in Southern Golden Gate Estates, however, will likely flood the Doerr and Nobel properties. Sellers have agreed to dismiss the lawsuit with prejudice. Accordingly, this acquisition will resolve the lawsuit and potential future litigation.

All mortgages and liens will be satisfied at the time of closing. The Doerr property is improved with a pole shed, a pond, fencing, and four wells. The Nobel property is improved with a single-wide mobile home, a 2,040-square-foot barn, a 864-square-foot storage shed, fencing, and a lake. The value of these improvements is included in the Division of State Lands (DSL) approved value. Under the provisions of the agreements, the sellers have the right to remove improvements from the properties. While the agreements provide for an adjustment in value, the agreements also allow the sellers to terminate the agreements if any

**Board of Trustees
Agenda - May 16, 2006
Substitute Page Twelve**

Substitute Item 5, cont.

such adjustment is made. The sellers have advised that any adjustment arising out of their removal of improvements will result in termination of the agreements. As a result, DSL seeks authority to exceed the DSL-approved value in an amount equal to the value of any improvements to be removed by the sellers, not to exceed \$133,000.

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. 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 may arise prior to closing.

Title insurance policies and environmental site evaluations will be provided by the purchaser prior to closing. It is the opinion of the Bureau of Survey and Mapping that the available boundary information is sufficient to reasonably protect the public's interest and any additional benefit derived from surveys is minimal relative to its cost; therefore, a waiver of the requirement for surveys of the properties are being requested pursuant to section 18-1.005, F.A.C.

The cypress swamps and old-growth slash pine flatwoods in the Belle Meade project, extending to the fast-developing suburbs of Naples, are still important for such endangered wildlife as Florida panthers, red-cockaded woodpeckers, and Florida black bear. Belle Meade is also the watershed for Rookery Bay. Public acquisition of the Belle Meade project will conserve the westernmost large natural area in southwest Florida, protect some of the southernmost populations of several rare animals, and help protect the quality of the subtropical estuary of Rookery Bay, while providing a large area for recreation in a natural environment to residents of and visitors to rapidly urbanizing southwest Florida.

These properties will be managed by the Florida Department of Agriculture and Consumer Services, Division of Forestry, under the multiple-use concept, with management activities being directed toward protection of old-growth forests and restoration of natural surface-water flows.

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 1-44)

RECOMMEND APPROVAL

2nd Substitute Item 6 **FAU Board of Trustees Lease Agreement/Scripps Research Institute, Inc. Sublease**

DEFERRED FROM THE MAY 2, 2006 AGENDA

REQUEST: Consideration of a request for (1) a 99-year lease agreement on 132.11 acres, more or less, to The Florida Atlantic University Board of Trustees; and (2) a subsequent 99-year sublease on 30 acres, more or less, to The Scripps Research Institute with certain limited rights conveyed to Palm Beach County, Florida.

COUNTY: Palm Beach

APPLICANT: The Florida Atlantic University Board of Trustees (FAU)

LOCATION: Section 23, Township 41 South, Range 42 East

STAFF REMARKS: On December 15, 1997, the John D. and Catherine T. MacArthur Foundation (Foundation) donated 132.11 acres, more or less, in Jupiter, Florida, to the Board of Trustees with a restriction and reverter that the property be used for a public university campus site and education-related purposes or it shall revert to the Foundation. In May 1998, a 50-year lease (number 4189) was granted to FAU to manage the property as its North Palm Beach Campus. There are 42 years remaining on the 50-year lease.

The Scripps Research Institute (Scripps), a California non-profit public benefit corporation, is planning for a Florida headquarters and new biomedical research institution in Palm Beach County (County). In November 2003, Governor Bush signed into law a historic piece of legislation that laid the framework for Scripps to expand its world-renowned scientific research and endeavors into Florida. The bill, passed by the Florida Legislature during special session, provides a one-time investment of \$310 million, from federal stimulus monies, that will cover the start-up operations of the Scripps campus during the first seven years. Scripps will create unprecedented economic and educational opportunities and propel the state to the forefront of biomedical research and discovery. On January 28, 2004, Scripps entered into a cooperative agreement with FAU for temporary use of a portion of its property for laboratory space until the new biomedical research institution could be built in phases.

Phase I of the construction requires Scripps to sublease a 30-acre tract of land from FAU on which to construct its initial research laboratories. There will be three buildings on the property consisting of approximately 360,000 square feet. Bonds issued by the County will fund the construction. In order for FAU to accommodate Scripps' long-term needs, FAU must have a 99-year lease. The 99-year lease term, if approved by the Board of Trustees, will enable FAU to sublease the parcel to Scripps and allow the County to have certain rights contingent upon completion of certain commitments for the same timeframe. Phase II of the construction of the biomedical research institution is proposed to be built on a private 70-acre parcel of land known as the Briger tract.

2nd Substitute Item 6, cont.

The Foundation has agreed that allowing Scripps to sublease the 30-acre parcel for its Florida headquarters and new biomedical research institution will be an appropriate use of the parcel in meeting the restriction and reverter placed on the property when it was donated to the Board of Trustees. The Foundation has also agreed to provide a recordable document to acknowledge its affirmation.

Pursuant to section 18-2.018(1)(a), F.A.C., the decision to authorize the use of Board of Trustees' uplands requires a determination that such use is not contrary to the public interest. Scripps will provide educational and research activities relating to biomedical sciences involving joint interaction of the faculty, staff and students of Scripps and FAU to encompass long-term, multi-project activities. For this reason, DSL staff believes that the lease and sublease are not contrary to the public interest.

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 the extended lease term is in the public interest. 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 three instances where the Board of Trustees has approved a lease term over the standard 50 years. The Department of Environmental Protection staff is of the opinion that an extended lease term is in the public interest and recommends a 99-year lease for FAU and a 99-year sublease for Scripps with certain limited rights conveyed to the County because of the substantial investment being made by the Florida legislature for the long-term scientific research being conducted, the ongoing doctoral program Scripps is creating as mandated by law in conjunction with the facility's research grant funding requirements on both company and doctoral programs, and the important economic impact the Scripps-FAU partnership will bring to the State of Florida.

Because the County is to pay for the construction of the buildings but will not be reimbursed for any construction costs, the County is requesting that it be added to the sublease so that if Scripps defaults on any of the provisions in the sublease, all interest in the sublease will be transferred to the County. In addition, on May 2, 2006 the Governor contacted the Palm Beach County Board of County Commissioners expressing support for FAU's purchase of the county-funded buildings for not more than \$100,000,000, subject to legislative appropriation, if Scripps leaves within the first 15 years of the Grant Agreement.

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.

(See Attachment 6, Pages 1-54)

RECOMMEND APPROVAL UPON COMPLIANCE WITH THE TERMS OF THE SUBLEASE, INCLUDING THE SATISFACTORY EXECUTION AND APPROVAL OF ALL UNDERLYING DOCUMENTS REFERENCED IN THE SUBLEASE