

**AGENDA
BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
FEBRUARY 13, 2007**

Item 1 Minutes

Submittal of the Minutes from the November 14, 2006, December 5, 2006 and December 19, 2006 Cabinet Meetings.

Submittal of the Board of Trustees/St. Johns River Water Management District Minutes from the January 29, 2002 and February 27, 2002 Cabinet Meetings.

Submittal of the Board of Trustees/Southwest Florida Water Management District Minutes from the August 15, 2006 Cabinet Meeting.

(See Attachment 1, Pages 1-86)

RECOMMEND APPROVAL

Item 2 TNC Sale and Purchase Agreement/Barry's Ranch/FFWCC's Fish and Wildlife Habitat Program

REQUEST: Consideration of an agreement for sale and purchase to acquire 1,286.7 acres under the Florida Fish and Wildlife Conservation Commission's Fish and Wildlife Habitat Program from The Nature Conservancy.

COUNTY: Alachua

APPLICANT: Florida Fish and Wildlife Conservation Commission

LOCATION: Sections 32 and Section 33, Township 10 South, Range 17 East; and Section 04, Township 11 South, Range 17 East

CONSIDERATION: \$10,060,000 (\$10,000,000 for the acquisition, \$60,000 to The Nature Conservancy for overhead costs. In addition, direct expenses and holding costs associated with the purchase will be reimbursed to The Nature Conservancy with the total cost not to exceed the approved value of \$10,290,000.)

<u>PARCEL</u>	<u>ACRES</u>	<u>APPRAISED BY</u>		<u>APPROVED</u> <u>VALUE</u>	<u>SELLER'S</u> <u>PURCHASE</u> <u>PRICE</u>	<u>TRUSTEES'</u> <u>PURCHASE</u> <u>PRICE***</u>	<u>CLOSING</u> <u>DATE</u>
		<u>Marr</u> <u>(08/07/06)</u>	<u>Page</u> <u>(08/07/06)</u>				
TNC	1,286.7	\$9,650,000	\$10,290,000	\$10,290,000	unknown**	\$10,060,000* (98%)	03/26/07

* \$7,818 per acre.

** TNC acquired, on December 1, 2006, an option to purchase the property from Barry's Ranch, Inc., Katherine S. Barry and Harris K. Solomon, and W. N. Barry, Jr. The sellers purchased the property through multiple transactions prior to 1943.

*** This acquisition will be purchased utilizing the Florida Fish and Wildlife Conservation Commission Land Acquisition Trust Fund, pursuant to section 372.074, F.S.

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NOTED FEATURES

Upland – 958.9 acres, Wetlands – 327.8 acres.

Access is via Southwest 250th Street.

Approximately 1,234 acres is located in the city limits of Newberry.

Approximately 53 acres is located in Alachua County.

Zoning, Newberry: A – Agricultural, one dwelling unit per five acres.

Alachua County: A – Agricultural, one dwelling unit per five acres.

Future Land Use Classification is Rural Agricultural, one unit per five acres, which would equal 256 units/lots. If developed with more than 25 lots, it would have to be developed under the Planned Rural Residential Development regulations.

Highest and Best Use – Continued Recreational/Agricultural with future residential development. Valuation is based on a price per acre for rural agricultural land, not on any potential residential units that may be developed in the future.

STAFF REMARKS: A small portion of this property adjoins the Goethe State Forest Watermelon Pond tract and approximately 50 percent of the property lies within the Watermelon Pond Florida Forever Project, which is currently designated as a group “B” project on the Florida Forever Full Fee Project List approved by the Board of Trustees on August 15, 2006. As such, it is not eligible for Florida Forever funding since almost one-half of the property is not within the project boundary. Furthermore, the proposed acquisition does not qualify under the group “B” bargain purchase criteria.

Pursuant to a multi-party acquisition agreement (MPAA) entered into between Fish and Wildlife Conservation Commission (FWCC), Department of Environmental Protection (DEP)’s Division of State Lands (DSL), and The Nature Conservancy (TNC), TNC has acquired an option to purchase this 1,286.7-acre parcel from Barry’s Ranch, Inc., Katherine S. Barry and Harris K. Solomon, and W. N. Barry, Jr. (Barry’s Ranch). If this item is approved, the Board of Trustees will acquire the property from TNC for a purchase price that is the sum of TNC’s expenses, to include: (1) the purchase price TNC paid Barry’s Ranch; (2) DSL-approved direct expenses associated with the purchase of the parcel; (3) DSL-approved holding costs, not to exceed 0.02 percent of TNC’s acquiring price, plus direct expenses per day beginning on the day that TNC acquired fee title to the parcel and ending on the day before TNC conveys title to the parcel to the Board of Trustees; and (4) TNC overhead, pursuant to the MPAA, not to exceed \$60,000. In no event will the final Board of Trustees’ purchase price exceed the approved value of \$10,290,000.

All mortgages and liens will be satisfied at the time of closing. There are three expired oil, gas, hydro-carbons, and sulphur leases on the property in favor of third parties. FWCC, the future managing agency, is willing to manage the property with these expired oil, gas, hydro-carbons, and sulphur leases in place; however, it is anticipated these expired leases will be removed prior to closing. There is a cattle grazing lease on the property that will be terminated prior to closing. The appraisers considered these conditions in the valuation of the property. Currently, FWCC has an agreement with the landowner to maintain a dove field on the property; this agreement will be terminated prior to closing, and the property will be restored and managed as gopher tortoise habitat. Staff has reviewed the appraisal map and survey data that has been used for appraisal purposes and there is no property located below the ordinary high water line (OHWL) of Watermelon Pond that is being considered in this acquisition. A survey of all the property will be completed prior to closing, and in no way will the Board of Trustees purchase any property located below the OHWL. On June 22, 1999, the Board of Trustees approved a staff

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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 the most appropriate resolution for these and any other title issues that arise prior to closing.

Article IV, section 9, of the Florida Constitution establishes FWCC with the power to exercise the regulatory and executive powers of the state with respect to fish and wildlife. Under this authority, FWCC has promulgated chapter 68A-27, F.A.C., to provide for permits, prohibitions, and the listing of endangered and threatened species. The Fish and Wildlife Habitat Program is established in section 372.074, F.S., which authorizes FWCC to acquire and manage lands important to conservation of fish and wildlife. This program was created to assist FWCC with the implementation of the regulatory provisions of chapter 68A-27, F.A.C., by providing an alternative mitigation process for offsetting impacts to listed wildlife. To comply with these provisions, landowners may obtain a permit for the taking of species of special concern, such as the gopher tortoise, by either protecting land onsite within a development, or by making payments to the Land Acquisition Trust Fund, identified in section 372.074, F.S. Once sufficient funds are available, FWCC uses the trust fund to purchase and manage habitat important to the protection of listed wildlife. This program improves the biological effectiveness of listed species' habitat protection by consolidating habitat protection areas into larger tracts, implementing listed species habitat management plans, and providing for long-term management by endowing each park with a dedicated funding source. It also provides developers with an important option for resolving conflicts between wildlife and new development.

Section 372.074, F.S., contains language stating that land purchases made pursuant to FWCC's Fish and Wildlife Habitat Program shall be subject to the acquisition procedures of section 253.025, F.S. However, chapter 253, F.S., has since been amended to move all the conservation land acquisition procedures to chapter 259, F.S. According to FWCC staff and DEP legal staff, the cross-reference in section 372.074, F.S., has yet to be amended to reflect this realignment of the conservation land acquisition procedures, and the amendment to chapter 253, F.S., that creates the applicable sub-section of chapter 259, F.S., automatically inserts itself in chapter 372.074, F.S. Therefore, pursuant to FWCC staff and DEP legal opinion, in view of the fact that this land is being purchased for conservation purposes, the land acquisition procedures set forth in section 259.041, F.S., are the procedures which apply to this transaction. Accordingly, this acquisition was negotiated by FWCC, pursuant to section 259.041, F.S. DEP and FWCC have found that mitigation banking, as defined in chapter 373, F.S., is not a part of this project.

A survey, a title insurance policy, an environmental site evaluation and, if necessary, an environmental site assessment will be provided at FWCC's expense, prior to closing.

Barry's Ranch is a mosaic of natural communities including, longleaf pine-turkey oak wiregrass sandhills, xeric hammock, wet prairie, basin marsh, and sandhill lakes, as well as former sandhill that has been converted to row crop/pasture agricultural uses. Although portions of the tract

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have been largely converted to pine plantation or other agricultural uses, past management of these areas has left suitable understory components for high quality gopher tortoise habitat and site restoration.

The property provides potentially important habitat for a number of listed species, including gopher tortoise, Sherman's fox squirrel, Eastern indigo snake, Florida mouse, short-tailed snake, and gopher frog, among others. Other factors that were important in the selection of this site for acquisition included: (1) suitable gopher tortoise density; (2) cost; (3) operational management suitability; (4) contiguity with other public lands; and (5) inclusion on the current FWCC acquisition list.

Acquisition of the site will preserve natural resources and provide additional habitat for listed and other species that are important to the conservation of fish and wildlife. It will also aid in the completion of the Watermelon Pond Florida Forever project, as well as buffer adjoining conservation lands from the fragmentation of wildlife habitat.

The property will be managed by FWCC as a Wildlife and Environmental Area primarily to provide optimum habitat for listed wildlife populations, wildlife viewing, and educational programs.

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 2, Pages1-59)

RECOMMEND APPROVAL