

AGENDA
BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
OCTOBER 27, 2009

Attachments to the items below can be viewed at the following link:
http://www.dep.state.fl.us/secretary/cab/public_notices.htm

Item 1 Minutes

Submittal of the Minutes from the September 15, 2009 Cabinet Meeting.

(See Attachment 1, Pages 1-5)

RECOMMEND APPROVAL

Item 2 Chapter 18-24, F.A.C., Notice of Proposed Rulemaking

REQUEST: Consent to publish the proposed revisions to chapter 18-24, F.A.C., pursuant to section 120.54(3)(a)1, F.S.

COUNTY: Statewide

APPLICANT: Department of Environmental Protection, (DEP) Division of State Lands (DSL) on behalf of the Acquisition and Restoration Council (ARC)

STAFF REMARKS: Pursuant to section 120.54(3)(a)1, F.S., consent of the Board of Trustees as the agency head is required before DEP may publish a proposed rule for eventual adoption. If the Board of Trustees approves publication, DEP will publish the rule in the Florida Administrative Weekly and the public will have 21 days to request a hearing, comment, or challenge the proposed rule. The Joint Administrative Procedures Committee has 30 days to comment. After the 30 days, DEP staff will determine if they need to publish a notice of change to the proposed rules. Once the final rule is established, DEP will bring the rule back to the Board of Trustees for review and adoption and submit it to the Legislature for consideration by February 1, 2010 pursuant to sections 259.035(4)(b) and 259.105(19), F.S.

In 2008, the Legislature passed Senate Bill 542, extending the Florida Forever Program for ten years and requiring, in part, that ARC develop rules “defining specific criteria and numeric performance measures” to be utilized when developing the annual Florida Forever acquisition list [section 259.035(4)(b), F.S. (2008)]. Also, pursuant to the same law, the DSL is now required to “prepare an annual work plan that prioritizes projects on the Florida Forever list and set forth the funding available in the fiscal year for land acquisition”[section 259.105(17)(2008)].

ARC’s rulemaking, pertinent to definition of program goals and measures, was guided by the criteria in sections 259.105(9) and (10), F.S., and by the goals and measures listed in section 259.105(4), F.S. The criteria and performance measures developed by ARC and described in this rule can serve to provide further definition to those already described in statute. Furthermore, pursuant to section 259.035(4)(b), F.S., the performance measures that ARC developed shall apply to all recipients of Florida Forever funds who must report their accomplishments to DSL annually.

Item 2, cont.

Additionally, not all relate to the evaluation of new proposals, regardless of the program component, but rather are post-acquisition measures that try to capture how successful the program has been in accomplishing its multi-fronted mission. For example, one measure relates to facilities development, another to the number of miles of trails created.

DSL held five workshops during the months of May and June 2009, four of which focused exclusively on goals and measures. All Florida Forever Program recipients participated in these workshops and provided input, as did ARC's primary land acquisition partners and other interested stakeholders. ARC conducted a workshop on its proposed process for ranking acquisition projects on June 11 and 12, 2009, and at its regularly scheduled public meeting on August 13 and 14, 2009. Because of heightened concern about portions of the proposed rule amendments, an additional public workshop was conducted on September 14, 2009. On October 8 and 9, 2009, ARC received additional testimony and adopted for submittal to the Board of Trustees, the proposed revisions to chapter 18-24, F.A.C.

The proposed rule revisions related to ranking are as a result of these workshops and discussions and accomplish the following:

Section 18-24.001, F.A.C.:

- Adds new definitions to the rule chapter for "Florida Forever Conservation Needs Assessment", "Resource-based recreation" and "Tax assessed value."
- Deletes references to the "Florida Forever Advisory Council" and to previous amendments adopted in the 2001 legislative session.

Section 18-24.002, F.A.C.:

- Again, deletes references to the "Florida Forever Advisory Council" and to previous amendments adopted in the 2001 legislative session.

Section 18-24.0021, F.A.C.:

- New section lists and interprets the Florida Forever criteria in statute.

Section 18-24.0022, F.A.C.:

- New section lists, interprets, modifies and adds Florida Forever goals and measures pursuant to 259.035(4)(b), F.S.

Item 2, cont.

Section 18-24.003, F.A.C.:

- Regarding project applications, increases the number of copies (or originals) of certain maps required to be submitted to take into consideration increased number of ARC members.
- Adds language requiring applicants to definitively describe how applications meet certain criteria.

Section 18-24.004, F.A.C.:

- Clarifies the requirement that ARC reviews applications to assure that they meet at least one Florida Forever criteria and two Florida Forever measures as part of the Initial Review.

Section 18-24.006, F.A.C.:

- Describes a different ARC ranking process whereby ARC votes projects to the acquisition list and gives recommendations to the Division of State Lands on categorization. After the Division places the projects in the work plan categories, ARC ranks the projects individually in numerical priority order within the categories.
- Adds a requirement that ARC gives increased priority to projects that meet certain criteria described in sections 259.105(9) and (10), F.S.; i.e., acquisition partnerships, owner's sell price discounts, and military buffering.
- Describes technical resource data, factors and initial information sources that ARC's priority rankings will be based upon, including: the Full Review, Florida Forever Project Evaluation Comparative Analysis, and Florida Forever Tool for Efficient Resource Acquisition and Conservation (F-TRAC). Additionally, ARC will consider whether projects: are considered high priority resources, meet multiple criteria, are substantially complete with important resources yet to be acquired, close a critical gap, and provide a greater number of opportunities for resource-based recreation.
- Describes other factors important in ARC's evaluation, selection and ranking process, including the threat of development or loss of resources, public support, and owner's willingness to sell, as well as any other pertinent information.
- Adds a description of the Division's land acquisition work plan development process and the method by which ARC's ranked list is transposed into DSL's work plan categories, as well as ARC's right to provide recommendations to DSL and ARC's ability to require the DSL to amend the work plan.

Item 2, cont.

- Describes how the Division places projects in each of the work plan categories into priority groups (High/Medium/Low).

(See Attachment 2, Pages 1-27)

RECOMMEND APPROVAL