

AGENDA
BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
JANUARY 26, 2010

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 October 27, 2009 Cabinet Meeting.

(See Attachment 1, Pages 1-4)

RECOMMEND APPROVAL

Item 2 Department of Transportation Conveyance/Determination/I-75/SR 29 ROW Interchange

REQUEST: Consideration of a (1) determination that a 8.798-acre parcel of state-owned land in Collier County is no longer needed for conservation purposes pursuant to section 253.034(6), F.S., and Article X, Section 18, of the Florida Constitution; and (2) request for approval to convey the parcel to the Department of Transportation pursuant to section 253.03, F.S.

COUNTY: Collier

APPLICANT: Department of Transportation (DOT)

LOCATION: Section 06, Township 50 South, Range 30 East

STAFF REMARKS:

History

The 1986 Florida Legislature authorized DOT and the Board of Trustees, in a joint acquisition effort, to use DOT's procedures for acquiring lands adjacent to Alligator Alley needed for the construction of Interstate 75 (I-75). On September 4, 1986, the Board of Trustees approved an Interagency Joint Participation Agreement (Agreement) between the Board of Trustees and DOT defining the responsibilities of each agency as it pertained to land acquisition along the I-75 corridor/Alligator Alley within the Save Our Everglades Conservation and Recreation Lands Project (SOE). Pursuant to the Agreement, DOT agreed to convey to the Board of Trustees any lands within SOE that were not needed for right-of-way purposes for I-75. In December of 1995, DOT deeded the parcel to the Board of Trustees.

Current Request

DOT is requesting the Board of Trustees convey this parcel, totaling 8.798 acres, at the I-75 and SR 29 right-of-way interchange, pursuant to section 253.03, F.S., and in accordance with the intent of the Agreement. After construction of I-75, it was found that a portion of the ramps, at this interchange, was located outside the DOT right-of-way. The proposed additional right-of-way is needed for the existing ramps. The parcel was purchased by DOT with transportation funds; therefore no reimbursement to the Board of Trustees will occur.

Item 2, cont.

On May 13, 2008, the Board of Trustees approved a similar conveyance to DOT for two parcels of state-owned land located at the northeast and southeast quadrants at the same interchange as this current request.

Constitution and Statutory Requirements

Pursuant to Article X, Section 18 of the Florida Constitution, the fee interest in real property may be disposed of only if the members of the governing board of the entity holding title determine the property is no longer needed for conservation purposes and only upon a vote of two-thirds of the governing board.

Pursuant to section 253.034(6), F.S., in order to surplus conservation lands, the Board of Trustees must make a determination that the lands are no longer needed for conservation purposes, and they may dispose of them by an affirmative vote of at least three members.

The Department of Environmental Protection (DEP) is recommending an affirmative determination by the Board of Trustees that this parcel is no longer needed for conservation purposes because the parcel contains a portion of the I-75 and SR 29 interchange ramp and would provide a greater public benefit as a DOT right-of-way. The original intent during the initial acquisition process was for DOT to retain all lands needed for the construction of I-75, of which this parcel should have been retained by DOT for building of the ramp.

Acquisition and Restoration Council (ARC) Recommendation

Pursuant to section 253.034(6)(d), F.S., the surplus of state-owned conservation lands is subject to review by ARC. However, since the 1986 Agreement was in place, clearly directing DOT and DEP to work together on acquisitions for the I-75 corridor along Alligator Alley/Everglades, ARC review is not necessary for the conveyance of this parcel.

Managing Agency Approval

The parcel is located on state-owned lands acquired as part of the Fakahatchee Strand Preserve State Park, which is managed by DEP's Division of Recreation and Parks (DRP). DRP has no objection regarding the conveyance of this parcel.

Mineral Interests

The provisions of section 270.11, F.S. requiring the Board of Trustees to reserve unto itself certain oil and mineral interests in all deeds of conveyances does not apply to any lands that inure to the Board of Trustees from other state agencies.

Comprehensive Plan

A consideration of the status of the local government comprehensive plan was not made for this item. DEP has determined that the transfer of real property is not subject to the local government planning process.

(See Attachment 2, Pages 1-20)

RECOMMEND APPROVAL

Substitute Item 3 **South Florida Water Management District Conveyance/Corkscrew Regional Ecosystem Watershed CARL Project**

REQUEST: Consideration of a request to convey two 5-acre parcels of state-owned conservation land to the South Florida Water Management District.

COUNTY: Lee

APPLICANT: South Florida Water Management District (SFWMD)

LOCATION: Section 35, Township 47 South, Range 26 East
Corkscrew Regional Ecosystem Watershed

STAFF REMARKS: On June 27, 1995, the Board of Trustees authorized staff to enter into an acquisition agreement with SFWMD to acquire various ownerships located within the Corkscrew Regional Ecosystem Watershed (CREW) Conservation and Recreation Lands (CARL) project. This acquisition agreement for the CREW CARL project was executed in July 1995. In 1998 and 1999, SFWMD negotiated the acquisition of two parcels of land in Lee County with mitigation funds. These parcels were approved for purchase under SFWMD's Resolution No. 98-46. Whereas title should have vested in SFWMD, the parcels were inadvertently deeded to the Board of Trustees along with a number of other parcels acquired for the Board of Trustees as part of the CREW CARL project.

The CREW CARL project is a bargain/shared project with SFWMD and Collier and Lee Counties. SFWMD has requested that the Board of Trustees deed the two parcels, identified as Tracts CS-003-758 and CS-003-766, to SFWMD.

Comprehensive Plan

A consideration of the status of the local government comprehensive plan was not made for this item. The Department of Environmental Protection has determined that the proposed action is not subject to the local government planning process.

(See Attachment 3, Pages 1-20)

RECOMMEND APPROVAL

Item 4 **Northwest Florida Water Management District/City of Tallahassee/BOT Termination and Release/Agreement/Megginnis Arm/Lake Jackson**

REQUEST: Consideration of (1) a Termination and Release of the Agreement Relating To Purchase of Land and (2) an Agreement Relating To Interest In Land between the Northwest Florida Water Management District, the City of Tallahassee, and the Board of Trustees.

COUNTY: Leon

APPLICANTS: Northwest Florida Water Management District (District) and City of Tallahassee (City)

Item 4, cont.

LOCATION: Megginnis Arm-Lake Jackson
Section 14, Township 01 North, Range 01 West

STAFF REMARKS:

History

In 1979, the Department of Environmental Regulation (DER) and the District entered into an agreement relating to purchase of land (Agreement) for the District's acquisition of approximately 29.72 acres of land at the Megginnis Arm of Lake Jackson (Property), located in northern Leon County. These lands were purchased for the protection, restoration, and preservation of Megginnis Arm. Although the District holds title to the Property, the Agreement contained a restriction requiring continued use of the Property for these purposes or said Property would be conveyed to the Board of Trustees at no cost.

Current Request

The District is proposing to transfer ownership of the Property, which is currently used as a storm water facility, to the City. As a part of due diligence, the title company is requiring termination of the Agreement in order to remove that part of the exception from the title insurance policy. The Termination and Release document releases any encumbrance created by the Agreement, and the Agreement Relating To Interest In Land will require the District to deed the Property to the City subject to a deed restriction upon the Property stating the Property will be used for the protection, restoration and preservation of Megginnis Arm. The Deed will also contain a shifting executory interest in favor of the Board of Trustees so if the Property ceases to be used for these purposes, fee title to the Property shall, at the sole option of the Board of Trustees, automatically and immediately vest in the Board of Trustees at no cost to the Board of Trustees.

Comprehensive Plan

A consideration of the status of the local government comprehensive plan was not made for this item. The Department of Environmental Protection has determined this action is not subject to the local government planning process.

(See Attachment 4, Pages 1-26)

RECOMMEND APPROVAL

Substitute Item 5 BOT/William Smith and Antonia M. Kruljac-Smith Settlement Agreement/ Delegation/Point Washington State Forest

REQUEST: Consideration of a (1) request to enter into a Settlement Agreement in Lieu of Litigation to resolve boundary-line issues with William Smith and Antonia M. Kruljac-Smith, or their successors or assigns, within Point Washington State Forest: and (2) delegation of authority to the Secretary of the Department of Environmental Protection, or designee, to resolve any future boundary-line issues within Parcel ID number 29-2S-20-33000-013-0010.

Substitute Item 5, cont.

COUNTY: Walton

APPLICANTS: William Smith and Antonia M. Kruljac-Smith, husband and wife

LOCATION: Section 29, Township 02 South, Range 20 West

STAFF REMARKS:

Background

On May 19, 1992, the Board of Trustees exercised the authority granted by section 253.025(15), F.S. (1992), and directed the Department of Environmental Protection (DEP) to attempt to purchase approximately 18,000 acres at a federal auction as part of the Resolution Trust Corporation's sale of lands from failed savings and loan associations. To facilitate the bidding process, The Nature Conservancy (TNC) offered its assistance to the Board of Trustees, acting as agent for the Board of Trustees, subject to specific limitations imposed by the Board of Trustees. After acceptance of TNC's bid, TNC assigned the Acknowledgement of Contingent High Bidder issued by the Special Master to the Board of Trustees. The 18,000-acre property was purchased with Preservation 2000 funds on May 20, 1992, for a total purchase price of \$4,386,507 or \$243.69/acre. However, because it was a time sensitive acquisition, a boundary survey was not performed prior to closing.

This acquisition became part of the Point Washington State Forest (Forest) in Walton County. The Department of Agriculture and Consumer Services' Division of Forestry (DOF), through DEP's Division of State Lands, contracted for boundary surveys within the Forest and other state forests for the purpose of identifying and marking management boundaries. When the final phase was completed in 2004, these surveys indicated numerous encroachments with adjoining private property owners ranging from 20-square-feet to over an acre in size. Many of these encroachments are a result of lots that were originally surveyed and platted in the early 1900s. The encroachments include roads, fence lines, shrubbery rows, utility lines and other improvements. Aerials show some of these improvements may have been in existence since at least the mid-1970s.

On February 16, 2005, the Board of Trustees approved DEP's proposal to settle these disputes in lieu of litigation, rather than defending numerous lawsuits for quiet title with the inherent expenses and risks.

Current Request

Similar to the 2005 request, DEP is requesting to enter into a settlement whereby the Board of Trustees would relinquish its possible interest in approximately 0.97 acre (42,275 square feet) to William Smith and Antonia M. Kruljac-Smith. In return, William Smith and Antonia M. Kruljac-Smith would be a part of the settlement which would resolve the boundary-line issue along the northern boundary/survey line at Parcel Numbers 29-2S-20-33000-013-0000 and 29-2S-20-33000-013-0020.

Substitute Item 5, cont.

DEP has determined this settlement for the survey discrepancy is administrative in nature, and therefore does not require the review of the Acquisition and Restoration Council.

DEP is also requesting a delegation to resolve similar issues pertaining to Parcel ID number 29-2S-20-33000-013-0010, the area between the two Smith and Kruljac-Smith parcels, in anticipation of their potential purchase of this 0.115-acre area, or, in the event that the current owner contacts DEP or DOF for a resolution of the issues.

DOF is the managing agency for the Forest under Board of Trustees' Lease No. 3972. DOF supports this settlement as a means of resolving the boundary-line issues at the Forest. Once this settlement is completed and the appropriate documents recorded, DOF will construct firebreaks, boundary posts and/or fences to delineate the newly determined boundary for management purposes.

Comprehensive Plan

A consideration of the status of any local government comprehensive plan was not made for this item. DEP has determined that the proposed action is not subject to the local government planning process.

(See Attachment 5, Pages 1-24)

RECOMMEND APPROVAL

Item 6 Florida Beta Students Aid Fund, Inc. Deed Restriction Modification/Delegation/ University of Florida

REQUEST: Consideration of a (1) modification of deed restrictions from the Board of Trustees to Florida Beta Students Aid Fund, Inc., a Florida nonprofit corporation to (a) allow the President of the University of Florida the authority to approve future architectural plans and specifications; (b) revise the side setbacks to one foot and the rear setback to 13 feet; and (2) delegation of authority to the Secretary of the Department of Environmental Protection, or designee, with concurrence from the President of the University of Florida, or designee, to modify deed restrictions relating to buildings, construction and the number of residents concerning the fraternity and sorority houses located on the University of Florida campus.

COUNTY: Alachua

APPLICANT: Florida Beta Students Aid Fund, Inc., a Florida nonprofit corporation (Beta)

LOCATION: Section 06, Township 10 South, Range 20 East

Item 6, cont.

STAFF REMARKS: Beta is working with the University of Florida (UF) regarding its architectural plans for an addition to Beta's existing fraternity house at UF. Beta's proposed plans include improvements setback approximately one foot from the side and 13 feet from the rear property lines. UF approved the improvements. During this process, Beta became aware that the improvements, as approved by UF, would violate the setback requirements set forth in quit claim deed from the Board of Trustees to Beta recorded at Official Records Book 2731, page 350 of the Public Records of Alachua County (Deed). The Department of Environmental Protection (DEP) has verified that the improvements at the point of constructed in 1955 violated the setbacks referenced in the Deed. Currently, when structures on the fraternity and sorority properties have to be repaired, upgraded and modified on the UF campus, UF oversees the design and construction and shepherds the fraternities and sororities through the UF campus master plan process. UF, the manager of these fraternity and sorority properties, with the support of DEP, has suggested to the Board of Trustees a delegation of authority to Secretary of DEP, or designee, with concurrence from the President of the UF, or designee, to modify deed restrictions relating to buildings, construction and the number of residents concerning the fraternity and sorority houses located on the UF campus.

Property History

In 1954, the State Board of Education (BOE) authorized the issuance of revenue certificates of approximately \$1,000,000 in accordance with terms of a loan agreement between the Board of Control and United States of America's Housing and Home Finance Agency. The purpose was to obtain financing for the construction of small fraternity and sorority houses on the campus of UF. The organizations that took advantage of this opportunity entered into leases with options to purchase with the BOE (Lease/Option).

In January of 1956, a Lease/Option was entered into between BOE, (the predecessor in title to the Board of Trustees), in conjunction with the Board of Control, and Beta. Paragraph XXIV 3. of the Lease/Option provided that upon payment of the total purchase price, the BOE would convey the property to Beta with a deed containing various covenants and restrictions, among which were that "No building shall be constructed on said lot until the architectural plans and specifications therefore and the financing thereof shall have been approved in writing by the Board of Regents;" and that "No building shall be constructed on said lot less than fifty (50) feet from the front line of said lot, nor less than fifteen feet from the side and rear lines of said lot."

Correspondence in 1994 from UF to the Board of Trustees' staff advised that the fraternities and sororities had satisfied their obligations under their purchase agreements, i.e. Lease/Option, and requested that the Board of Trustees prepare deeds conveying the land. Subsequently, on July 19, 1996, the Board of Trustees approved a quitclaim deed to Beta.

Current Requests

DEP is requesting the Board of Trustees issue a Modification of Deed Restrictions to authorize the President of UF to approve future plans and specifications for the fraternity house. The Board of Regents was abolished effective July 1, 2001, and the UF Board of Trustees assumed its duties and responsibilities with regard to operations of UF. The UF Board of Trustees has

Item 6, cont.

delegated to the UF President the authority to review plans and specifications of the fraternity house. DEP is also requesting to modify the restrictions of paragraph 3. of the Deed to revise the side setbacks to one foot and the rear setback to 13 feet. DEP is requesting delegation of authority to the Secretary of DEP, or designee, with concurrence from the President of the UF, or designee, to modify deed restrictions relating to buildings, construction and the number of residents concerning the fraternity and sorority houses located on the UF campus. Any modification of UF fraternity and sorority deed restrictions regarding the sale of the property is not part of this delegation of authority and would be subject to the Board of Trustees approval.

Comprehensive Plan

A consideration of the status of any local government comprehensive plan was not made for this item. DEP has determined that the proposed actions are not subject to local zoning type laws and do not apply, pursuant to section 1013.30, F.S.

(See Attachment 6, Pages 1-33)

RECOMMEND APPROVAL

Substitute Item 7 Chapter 18-1, F.A.C., State Land Acquisition Procedures/Notice of Proposed Rulemaking/Appraisal Requirements

REQUEST: Approval to publish the proposed revisions to chapter 18-1, F.A.C., "State Land Acquisition Procedures," pursuant to section 120.54(3)(a)1, F.S., that will update and modify appraisal requirements for Board of Trustees land transactions.

COUNTY: Statewide

APPLICANT: Department of Environmental Protection (DEP), Division of State Lands (DSL)

STAFF REMARKS: Pursuant to section 120.54(3)(a)1, F.S., approval 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 (F.A.W.) and the public will have 21 days to request a hearing, comment, or challenge the proposed rule. If a hearing is requested, a notice of the hearing will be published in the F.A.W. The Joint Administrative Procedures Committee (JAPC) will be provided the opportunity to review and comment. After receiving comments from JAPC, DEP staff will determine if publishing a notice of change to the proposed rules is needed. Once the final rule is prepared, DEP will submit the rule to the Board of Trustees for review and adoption.

Pursuant to section 253.025(6)(f), F.S., appraisal reports shall include a sales history of an acquisition parcel for at least the prior 5 years. The statute also provides that if the sales history would not be useful, or its cost prohibitive compared to the value of the parcel, the sales history

Substitute Item 7, cont.

may be waived. In 2008, the Legislature passed Senate Bill 542, modifying section 253.025(6)(f), F.S., requiring the Board of Trustees to adopt a rule specifying the guidelines for waiver of a sales history in appraisal reports for land acquisitions. Thus, revisions are proposed to rule 18-1.006, F.A.C., to implement the requirements for a waiver of the sales history. The proposed revisions to rule will waive the sales history when there are large numbers of similarly sized parcels. The criteria for a waiver would be an appraisal assignment where: 1) there are 25 or more parcels; 2) each parcel is 20 acres or less in size; and 3) the most recent ad valorem tax assessment for each parcel is \$75,000 or less, excluding tax exemptions. An example of this would be an appraisal of multiple lots within a subdivision would not require the sales history for each lot.

Senate Bill 542 (2008), also made changes to section 253.025(6)(e), F.S., regarding the appraisal review requirements for non-conservation land acquisitions. The changes to statute removed the requirement for a field inspection when approving an appraisal for parcels with a value in excess of \$250,000. As a result to this change in statute, the proposed revisions to rule 18-1.007(5), F.A.C., will make the review requirement for non-conservation land acquisitions consistent with the existing appraisal review requirements for conservation land. The proposed rule change will require that, for acquisition parcels with values greater than \$500,000, an appraisal review will be developed and reported according to the requirements of Standard 3 of the Uniform Standards of Professional Appraisal Practice (USPAP) and the Supplemental Appraisal Standards for Board of Trustees Land (Supplemental Standards). For acquisition parcels with values of \$500,000 or less, a cursory review by DEP's Bureau of Appraisal will be conducted for assurance that requirements of the appraisal assignment were met.

An additional change to chapter 18-1, F.A.C., and the Supplemental Standards will update the citation of the USPAP to the version effective January 1, 2010. Also, several typographical errors will be corrected in the Supplemental Standards in regard to the name of the document. There are several references which include the previous name which had "Acquisitions" in the title. The Supplemental Standards now apply to all appraisals for acquisition, surplus and use of state land; thus, "Acquisitions" was deleted from the title. The Supplemental Standards are adopted by reference in rule 18-1.002(27), F.A.C.

DSL published a Notice of Development of Rulemaking for these proposed revisions in the F.A.W on October 30, 2009. No comment has been received by the public or others.

(See Attachment 7, Pages 1-22)

RECOMMEND APPROVAL

2nd Substitute Item 8 **Lake Okeechobee Habitat Alliance, Inc. Lease/Determination/Curry Island**

REQUEST: Consideration of a (1) determination that leasing 2,689.68 acres, more or less, of sovereignty submerged lands is not contrary to the public interest pursuant to Article X, Section 11, Florida Constitution, and paragraph 18-21.004(1)(a), F.A.C.; and (2) five-year lease with one five-year renewal, at the sole option of the Board of Trustees, to Lake Okeechobee Habitat Alliance, Inc., a Florida nonprofit corporation, for a fish and wildlife habitat area with resource-based recreation containing approximately 2,710.02 acres.

COUNTY: Glades

APPLICANT: Lake Okeechobee Habitat Alliance, Inc., a Florida nonprofit corporation (LOHA)

LOCATION: Curry Island - Sections 27, 28 and 34, Township 40 South, Range 32 East; and Sections 03 and 10, Township 41 South, Range 32 East

CONSIDERATION: There is no monetary consideration, however the Board of Trustees will receive management oversight and restoration on the state lands within the leased premises.

STAFF REMARKS:

Proposed LOHA Lease

LOHA has requested a lease from the Board of Trustees for a fish and wildlife habitat area with resource-based recreation on state-owned sovereignty submerged lands and uplands located on Curry Island in Glades County, Florida. LOHA, a Florida nonprofit corporation, has been working with both Glades County and the Department of Environmental Protection (DEP) towards establishing a public/private partnership for management of a portion of the state-owned lands at Curry Island. One of the objectives is to incorporate a fish and wildlife habitat area, including hunting in controlled areas, with an existing public recreation lease and trail system. The proposed LOHA lease will encompass approximately 2,689.68 acres of sovereignty submerged lands and 20.34 acres of uplands and will be located adjacent to existing Glades County Lease No. 3514. Lease No. 3514 is a fifty-year upland lease for public outdoor recreation and related purposes which expires in October 2037. Glades County will be requesting a lease amendment, at a later date, to add more area to its existing upland lease.

The proposed LOHA lease involves sovereignty submerged lands as well as adjacent state-owned lands acquired by the Board of Trustees by virtue of the Swamp and Overflowed Lands Act of the United States Congress, approved September 28, 1850.

LOHA proposes to establish and operate a fish and wildlife habitat area with a variety of natural, resource-based recreational uses open to the public, such as fishing, birding, hiking, horseback riding, nature study, primitive camping, and hunting only in areas designated by LOHA through the approved management plan. The term of the LOHA lease would be for five years, with one five-year renewal at the sole option of the Board of Trustees. The Board of Trustees will require LOHA to submit a management plan within one year of execution of the lease, and one year after

2nd Substitute Item 8, cont.

submittal of the management plan, DEP will inspect the leased premises to assure all lease terms and conditions are being met. Also, the proposed lease will contain a special lease condition prohibiting use of the leased premises for mitigation purposes and/or mitigation banking.

Additionally, any fees generated relative to operation of the lease shall be consistent with those fees charged and collected by the FWC wildlife management areas, pursuant to section 379.354, F.S., to preserve full accessibility by the general public. Also, hunting season schedules shall adhere to FWC guidelines, pursuant to Title 68A, F.A.C. There will be special lease conditions incorporated into the lease requiring the lease to be open to the general public at all times; regulation on hunting fees and schedules; and allowing no special opportunity hunts. Also, there will be a special lease condition requiring LOHA to submit an annual financial report to the Board of Trustees, by July 15th of each year, detailing all fees received.

In addition to offering the recreational activities detailed above, LOHA will also be conducting habitat restoration activities within the leased premises, working closely with the South Florida Water Management District (SFWMD). This will include plant sampling and monitoring activities, restoration of native vegetation, exotic species removal, and prescribed burning. Any fees received will be utilized for habitat restoration and maintenance of the leased premises.

Curry Island Trailhead

The Florida National Scenic Trail runs adjacent to portions of the western border of the proposed LOHA lease and west of the Glades County lease. As part of the recreational planning process, the Curry Island Trailhead and Trail Loop are being developed to eventually connect with the Florida National Scenic Trail. This will provide trail users direct access to remote primitive camping, several fishing ponds, and the Historic Parker Place & Youth Camp.

Additionally, DEP's, Office of Greenways and Trails, has recently entered into a Memorandum of Understanding with the Department of Transportation for construction of a portion of the Lake Okeechobee Scenic Trail which will facilitate connectivity to the Curry Island access point. They have obtained funding for \$1.2M which will allow for approximately six miles of trail to be paved.

Public Interest Determination

Pursuant to Article X, Section 11, Florida Constitution, titled "Sovereignty Lands", "Private use of portions of such lands may be authorized by law, but only when not contrary to the public interest." Additionally, the proposed lease is not located within an aquatic preserve and will not result in the sale of sovereignty submerged lands. Therefore, to receive approval, the lease is not specifically required by rule or statute to demonstrate that it is "in the public interest," only that it be "not contrary to the public interest," pursuant to paragraph 18-21.004(1)(a), F.A.C. The proposed lease to LOHA will contain a special lease condition requiring the leased premises be open to the public. Therefore, DEP recommends the Board of Trustees determine that the proposed lease is not contrary to the public interest. Competitive bidding is not required as the proposed LOHA lease does not prohibit public use.

2nd Substitute Item 8, cont.

SFWMD Ownership

SFWMD owns property adjacent to the proposed lease, and LOHA will work directly with SFWMD to obtain any necessary approvals and/or permits required for restoration activities.

Acquisition and Restoration Council (ARC) Recommendation

It has been determined by DEP that ARC review is not necessary as the majority of the leased premises is sovereignty submerged lands.

Noticing

Pursuant to section 253.115, F.S., all owners of land lying within 500 feet of the proposed leased premises - Board of Trustees and SFWMD - have no objection to the lease.

Comprehensive Plan

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. A Compliance Agreement between DCA and the local government has been finalized. The proposed action is consistent with the adopted plan according to a letter received from Glades County.

(See Attachment 8, Pages 1-24)

RECOMMEND APPROVAL

**2nd Substitute Item 9 BOT/FWC/Florida Gas Transmission Company, LLC Easements/
Natural Gas Transmission Line**

REQUEST: Consideration of a (1) fifty-year easement over 106.97± acres from the Board of Trustees; (2) five-year temporary construction easement over 162.42± acres from the Board of Trustees; (3) fifty-year easement over 9.28± acres from the Florida Fish and Wildlife Conservation Commission; and (4) five-year temporary construction easement over 12.21± acres from the Florida Fish and Wildlife Conservation Commission for a natural gas transmission line and appurtenances within multiple state forests, parks, trails and wildlife preserves.

COUNTIES: Santa Rosa, Okaloosa, Gadsden, Leon, Levy, Citrus, Manatee, Highlands, DeSoto

APPLICANT: Florida Gas Transmission Company, LLC (FGT)

LOCATION: Multiple Sections, Townships and Ranges

2nd Substitute Item 9, cont.

CONSIDERATION:

Board of Trustees' Easements

Appraised market value plus 1.5 times appraised market value of the proposed easement, as additional compensation.

- FGT will convey 359.37 acres within the current optimum boundary of Blackwater River State Forest (Blackwater) in Okaloosa County with an appraised market value of \$720,000 to the Board of Trustees;
- \$150,700 cash boot (which is the difference of the appraised market value of the FGT-owned parcels being conveyed and the appraised market value of the proposed easement area) to be deposited into the Internal Improvement Trust Fund;
- \$54,250 worth of replacement land within the Lake Wales Ridge Florida Forever project boundary;
- \$40,750 worth of replacement land in the Joe Budd Wildlife Management Area (Joe Budd WMA); and
- FGT will install approximately 220 feet of boundary fence with a gate and supply chemicals for treatment of invasive plants at Beker State Park.

Florida Fish and Wildlife Conservation Commission (FWC) Easements

Appraised market value plus 1.5 times appraised market value of the proposed easement, as additional compensation.

- FGT will acquire and convey \$33,250 worth of replacement land at the Emerald Bay parcel to FWC; and
- FGT will acquire and convey \$38,000 worth of replacement land in Joe Budd WMA to FWC

STAFF REMARKS: FGT is proposing to widen an existing easement for a natural gas pipeline and all associated pipeline support facilities, known as the FGT Phase VIII Expansion Project (Project). FGT holds several easements with varying terms over the above mentioned pipeline area. This proposal would consolidate the multiple existing easement areas on Board of Trustees-owned land into a single fifty-year easement along with a five-year temporary easement for construction and access and a single fifty-year easement with a single five-year temporary easement for construction and access on FWC-owned land. The Project would increase FGT's certified capacity for transportation of natural gas by about 820 million cubic feet per day. This increase will create 17 new jobs and is necessary for current and future demands for natural gas energy. Per FGT's request, the appraisals did not consider the remaining term lengths or area of the existing easements but calculated the market value of the new fifty-year and temporary easements as if the area was unencumbered. This decision was made because of the extensive amount of research and surveying that would be necessary to accurately document each existing easement, calculate the new area needed and determine any overlaps along the boundary line that connect the new area to the existing area.

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2nd Substitute Item 9, cont.

At several locations, the Project will cross land that is owned by either the Board of Trustees or FWC and managed by the Department of Environmental Protection's Division of Recreation and Parks (DRP) or Office of Greenways and Trails (OGT), the Department of Agriculture and Consumer Services' Division of Forestry (DOF), the Department of Corrections (DOC) or FWC. Section 379.3002, F.S., which requires Board of Trustees' approval of easements on certain FWC-owned land, has been interpreted to cover certain other FWC-owned land so Board of Trustees' approval is being requested jointly for both Board of Trustees-owned land and FWC-owned land in the Project.

The multiple Board of Trustees-owned conservation land crossings are listed in the following table from west to east in the Panhandle, then north to south in the Peninsula, followed by the FWC-owned land. Also shown is a summary of total easement acreage to FGT, if the current request is approved by the Board of Trustees.

	New Impact Area*	50-year Easement	Temporary Easement	Total Acreage for 50-year and Temporary Easements
	16.9			
DOF Blackwater River State Forest	4	73.88	103.93	177.81
FWC-managed Joe Budd WMA	2	4.60	6.12	10.72
DOF Lake Talquin State Forest	7.3	16.38	34.27	50.65
OGT St. Marks Trail	N/A	0.07	0.07	0.14
DOF Wakulla State Forest	N/A	N/A	0.13	0.13
DOF Goethe State Forest	N/A	4.58	8.35	12.925
OGT Marjorie Harris Carr Cross Florida Greenway	N/A	0.60	1.13	1.73
DRP Beker State Park	N/A	0.16	0.085	0.24
FWC-managed Lake Wales Ridge	N/A	1.46	1.07	2.53
DOC DeSoto Correctional	N/A	5.24	7.26	12.50
<u>TOTAL - Board of Trustees'</u>	26.2			
<u>land</u>	4	106.97	162.42	269.39
<i>FWC-owned</i> Emerald Bay	1.06	5.3	5.61	10.91
<i>FWC-owned</i> Joe Budd WMA	2	3.98	6.60	10.58
<u>TOTAL - FWC land</u>	3.06	9.28	12.21	21.49
<u>Combined TOTAL - Board of Trustees and FWC</u>	29.3	116.25	174.63	278.35

* The New Impact Area represents the acreage proposed to be added to FGT's existing multi-termed easements.

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Each impacted management area has been acquired by different funding methods and is being managed for various public activities. The following is the acquisition history, purpose and current use for Board of Trustees-owned property in each individual management area followed by the FWC-owned property.

BOARD OF TRUSTEES' EASEMENTS

- **Blackwater River State Forest** - Santa Rosa and Okaloosa counties

This site will add approximately 16.94 acres of newly impacted land to an existing easement area for 73.88 acres of the 106.97-acre fifty-year easement, plus 103.93 acres of the 162.42-acre temporary easement.

Acquisition History and Purpose: Blackwater was acquired as a land use project by the U.S. Government in the mid-1930s. Shortly after the U.S. Government acquired the property, it was turned over to the Soil Conservation Service (SCS) for administration. The State of Florida was granted management of the property in November 1938 by a fifty-year lease, with three automatic extensions of 15 years each. In 1954, title to the property was transferred from the SCS to the U.S. Forest Service who, in 1955, deeded the property to the State of Florida, Board of Forestry. Total size of this original acquisition was 183,184.57 acres.

Several parcels have been added to Blackwater under the Preservation 2000 (P-2000) and Florida Forever Inholdings & Additions Programs, including the 1,249.8-acre Juniper Creek parcel acquired on April 18, 1997, and the 4,454.42-acre Southern Blackwater Parcel (Hutton Tract) acquired on June 19, 1997, located near the Harold community. In addition under the Florida Forever Program the state added the Ates parcel (4,623.8 acres). Several smaller parcels have been acquired over the years through mitigation and other means. These parcels range in size from forty to eighty acres with a total acquisition of 279.95 acres.

Current Use: Blackwater is designated for multiple-use management by DOF. Uses of the forest are consistent with the concepts of ecosystem restoration and multiple use management, and include but are not limited to: timber management, recreation (hiking, biking, hunting, picnicking, canoeing, fishing and horseback riding), water-resource protection, research, and forest-ecosystem protection.

- **Joe Budd WMA** - Gadsden County

This site will add approximately 2 acres of newly impacted land to an existing easement area for 4.6 acres of the 106.97-acre fifty-year easement, plus 6.12 acres of the 162.42-acre temporary easement.

Acquisition Date and Program: This property was acquired by the Board of Trustees in 1992 through the P-2000 In-holdings and Additions program.

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Purpose of Acquisition and Applicable Restrictions: On lands FWC owns or manages, it is the policy of the agency, as expressed in the Agency Strategic Plan, to provide a diversity of recreational opportunities which are fish and wildlife oriented and that do not adversely impact the long-term well-being of fish and wildlife populations or habitats. Current Use: Joe Budd WMA is managed by FWC for recreational activities including hiking, biking, hunting, and horseback riding.

- **Lake Talquin State Forest - Gadsden and Leon counties**

This site will add approximately 7.3 acres of newly impacted land to an existing easement area over 16.38 acres of the 106.97-acre fifty-year easement, plus 34.27 acres of the 162.42-acre temporary easement.

Acquisition Date and Program: Most of the Lake Talquin State Forest (Lake Talquin) was acquired by donation from the Florida Power Corporation in 1977 to the Board of Trustees. Subsequent additions occurred through the use of DOF P-2000 funds, the Land Acquisition Trust Fund and mitigation.

Purpose of Acquisition and Applicable Restrictions: Conservation and outdoor recreation.

Current Use: Lake Talquin is designated for multiple-use management by DOF. Uses of Lake Talquin are consistent with the concepts of ecosystem restoration and multiple-use management, and include but are not limited to: timber management, recreation (hiking, biking, hunting, picnicking, canoeing, fishing and horseback riding), water-resource protection, research, and forest-ecosystem protection.

- **St. Marks Trail - Leon County**

This site will add the existing 0.07-acre easement to the 106.97-acre fifty-year easement, plus 0.07 acre to the 162.42-acre temporary easement. No surface excavation will occur on any area; however, limited vegetation clearing will occur.

Acquisition Date and Program: On November 13, 2006 the Department of Transportation transferred this property to Board of Trustees by "Public Purpose Quitclaim Deed".

Purpose of Acquisition and Applicable Restrictions: Public outdoor recreation and conservation.

Current Use: Hiking and biking.

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- **Wakulla State Forest, Woodville Tract - Leon County**

This site will include approximately 0.13 acre of the 162.42-acre temporary easement. The total crossing length is approximately 150 feet.

Acquisition Date and Program: The Woodville Tract was acquired by a Tax Deed from Leon County in 1946. Formerly known as the Woodville State Forest, it was combined with the Wakulla State Forest in June 2002.

Current Use: The Wakulla State Forest is designated for multiple-use management by DOF. Uses of the forest are consistent with the concepts of ecosystem restoration and multiple-use management, and include but are not limited to: timber management, recreation (hiking, biking, hunting, picnicking, canoeing, fishing and horseback riding), water-resource protection, research, and forest-ecosystem protection.

- **Goethe State Forest - Levy County**

This site will include 8.35 acres of the 162.42-acre temporary easement. The total crossing length is approximately 5,064 feet.

Acquisition Date and Program: The affected part of Goethe State Forest (Goethe) was acquired in 1992 as part of the Levy County Forest/Sandhill Conservation and Recreation Lands project.

Current Use: Goethe is designated for multiple-use management by DOF. Uses of the forest are consistent with the concepts of ecosystem restoration and multiple-use management, and include but are not limited to: timber management, recreation (hiking, biking, hunting, picnicking, canoeing, fishing and horseback riding), water-resource protection, research, and forest-ecosystem protection.

- **Marjorie Harris Carr Cross Florida Greenway - Citrus County**

This site will add approximately 0.60 acre of newly impacted land that has no surface impacts to the 106.97-acre fifty-year easement, plus 1.13 acres to the 162.42-acre temporary easement.

Acquisition Date and Program: This property was transferred from the Federal Government to the State of Florida as part of the former Cross Florida Barge Canal route (Barge Canal) upon de-authorization of the Barge Canal by President George H.W. Bush in 1990.

Purpose of Acquisition and Applicable Restrictions: Section 253.781, F.S., establishes the creation of the Cross Florida Greenways State Recreation and Conservation Area. Section 253.781(1), F.S., states, "It is the finding of the Legislature that these areas have

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significant impact upon environmental and recreational resources of statewide importance and that the public ownership of and access to such areas are necessary and desirable to protect the health, welfare, safety and quality of life of the residents of this state”.

Current Use: Hiking, biking, boating, fishing, paddling, equestrian and ATV.

- **Beker State Park (South Fork Unit) - Manatee County**

This site will add approximately 0.16 acre of newly impacted land to the 106.97-acre fifty-year easement, plus 0.085 acre to the 162.42-acre temporary easement.

Acquisition Date and Program: On October 26, 1988, the Board of Trustees obtained title to 1,124.11 acres which later became Beker State Park (Park). The Board of Trustees acquired the property by donation due to a Chapter 11 settlement.

Purpose of Acquisition and Applicable Restrictions: The donation was accepted without any restrictions and with very poor access due to the wetlands on the property. Recently, public access has been established through an adjacent property owned by Manatee County and another parcel owned by the Southwest Florida Water Management District.

Current Use: The Park’s main visitors are hikers and bird watchers.

- **Lake Wales Ridge Wildlife Environmental Area - McJunkin Unit and Lake Placid Scrub Unit - Highlands County**

This site will add approximately 1.46 acres to the 106.97-acre fifty-year easement, plus 1.07 acres to the 162.42-acre temporary easement.

Acquisition Date and Program: The property was acquired in 2002 and purchased with Florida Forever funding.

Purpose of Acquisition and Applicable Restrictions: To conserve and protect environmentally unique and irreplaceable lands that contain native, relatively unaltered flora and fauna representing a natural area unique to or scarce within a region of the state or a larger geographic area; to conserve and protect significant habitat for native species or endangered and threatened species; and to conserve, protect manage or restore important ecosystems, landscapes and forests in order to enhance or protect significant surface water, coastal, recreational, timber, fish or wildlife resources which local or state regulatory programs cannot adequately protect.

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Current Use: The primary uses are the protection of endangered and threatened species, ecosystem maintenance, soil and water conservation, wildlife observation, interpretive trails and hiking. Secondary uses are planned to be hunting, fishing, bicycling, horseback riding and developed camping.

- **DeSoto Correction Institution - DeSoto County**

This site has no existing easement but adds 5.24 acres to the 106.97-acre fifty-year easement, plus 7.26 acres to the 162.42-acre temporary easement.

Acquisition Date and Program: The property was acquired in 1976 through a land exchange and is leased to DOC for 99 years effective 1977.

Purpose of Acquisition and Applicable Restriction: Developing, improving, operating, maintaining and otherwise managing said land for public purposes.

Current Use: Desoto Correctional Institute, offender rehabilitation.

FWC EASEMENTS

- **Emerald Bay Mitigation Parcel - Okaloosa County**

This site will add approximately 1.06 acres of newly impacted land to an existing easement area over 5.3 acres of the 9.28-acre fifty-year easement, plus 5.61 acres to the 12.21-acre temporary easement.

Acquisition Date and Program: The Emerald Bay mitigation parcel was conveyed as mitigation on October 28, 1991.

Purpose of Acquisition and Applicable Restrictions: The property was acquired as mitigation to offset anticipated adverse impacts to wildlife habitats attributable to a proposed 423-acre Emerald Bay multi-purpose development planned along the shores of the Choctawhatchee Bay.

Current Use: Conservation land.

- **Joe Budd WMA - Gadsden County**

This site will add approximately 2 acres of newly impacted land to an existing easement area over 3.98 acres of the 9.28-acre fifty-year easement, plus 6.60 acres to the 12.21-acre temporary easement.

Acquisition Date and Program: Acquired in 1987 with funds from the FWC Land Acquisition Trust Fund.

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Purpose of Acquisition and Applicable Restrictions: On lands FWC owns or manages, it is the policy of the agency, as expressed in the Agency Strategic Plan, to provide a diversity of recreational opportunities which are fish and wildlife oriented, and that do not adversely impact the long-term well-being of fish and wildlife populations or habitats. Such opportunities are developed based upon public interests, usually as expressed during public involvement efforts of the agency.

Current Use: Joe Budd WMA is managed by FWC for recreational activities including hiking, biking, hunting, fishing, wildlife viewing, nature photography and horseback riding.

The proposed Board of Trustees' easements were reviewed by the Acquisition and Restoration Council (ARC) on August 14, 2009 and found to be consistent with the Board of Trustees' Linear Facilities Policy, including avoidance as the easement overlaps existing easements and was outlined in detail on the ARC agenda item. The easements to be granted by FWC were reviewed and approved by the Commission at its regularly scheduled meeting on September 9 - 11, 2009, and it was also found to be consistent with the Board of Trustees' Linear Facilities Policy by ARC on October 9, 2009. FGT has worked closely on the Project with all the managing agencies, none of which have objections to the proposed temporary or the fifty-year easements. DRP, OGT and DOF agreed that FGT's conveyance of a 359.37-acre tract of real property within Blackwater to the Board of Trustees rather than smaller parcels within their individual management areas was acceptable.

Comprehensive Plan

A consideration of the status of any local government comprehensive plans was not made for this item. DEP has determined that the proposed action is not subject to the local government planning process.

(See Attachment 9, Pages 1-86)

RECOMMEND APPROVAL