

AGENDA
BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
APRIL 27, 2010

Attachments to the items below can be viewed at the following link:

http://www.dep.state.fl.us/secretary/cab/public_notices.htm

Substitute Page

Item 1 Minutes

Submittal of the Minutes from the February 24, 2010 Cabinet Meeting.

(See Attachment 1, Pages 1-4)

RECOMMEND APPROVAL

Substitute Item 2 Chapter 18-1, F.A.C., Rule Amendments Adoption/State Land Acquisition Procedures/Appraisal Requirements

WITHDRAWN FROM THE APRIL 13, 2010 AGENDA

REQUEST: Approval from the Board of Trustees, as the agency head, to file the proposed amendments to chapter 18-1, F.A.C., "State Land Acquisition Procedures," for adoption with the Department of State pursuant to section 120.54(3)(e)1, F.S.

COUNTY: Statewide

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

STAFF REMARKS: Pursuant to section 120.54(3)(e)1, F.S., approval of the Board of Trustees, as the agency head, is required before the rule is filed for adoption with the Department of State. The proposed amendments to the rule will update and modify appraisal requirements for Board of Trustees' land transactions.

DSL, as staff to the Board of Trustees, published a Notice of Development of Rulemaking for these proposed amendments in the Florida Administrative Weekly (F.A.W.) on October 30, 2009. The Board of Trustees approved the Notice of Proposed Rulemaking on January 26, 2010 which was published in the F.A.W. on February 5, 2010. No comment has been received by the public or others. The Joint Administrative Procedures Committee has no comments after reviewing the proposed amendments to chapter 18-1, F.A.C.

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, amendments are proposed to rule 18-1.006, F.A.C., to implement the requirements for a waiver of the sales history. 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 it is cost prohibitive compared to the value of the parcel, the sales history may be waived. The proposed amendments 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, and 2) each parcel is 20 acres or less in size, and 3) the most

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recent ad valorem tax assessment for each parcel is \$75,000 or less, excluding tax exemptions. As an example of this, 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 amendments 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.

(See Attachment 2, Pages 1-26)

RECOMMEND APPROVAL

**Substitute Item 3 Southern Keys Cemetery, Incorporated Conveyance/Determinations/
Encroachment/Florida Keys Ecosystem Florida Forever Project**

REQUEST: Consideration of (1) a determination that a 0.019-acre parcel, more or less, of state-owned land in Monroe County is (a) no longer needed for conservation purposes, pursuant to Article X, Section 18 of the Florida Constitution and section 253.034(6), F.S.; and (b) surplus; and (2) a request to convey the 0.019-acre parcel to Southern Keys Cemetery, Incorporated.

COUNTY: Monroe

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Substitute Item 3, cont.

APPLICANT: Southern Keys Cemetery, Incorporated (SKC)

LOCATION: Section 22, Township 67 South, Range 26 East

CONSIDERATION: \$300 to be deposited in the Florida Forever Trust Fund, pursuant to section 253.034(6)(j), F.S.

<u>PARCEL</u>	<u>ACRES</u>	<u>DSL CSA*</u> <u>(09/14/09)</u>	<u>APPROVED</u> <u>VALUE</u>	<u>SALES</u> <u>PRICE</u>	<u>CLOSING</u> <u>DATE</u>
SKC Encroachment	0.019	\$300	\$300	\$300	120 days after BOT approval

*Department of Environmental Protection's Division of State Lands did a Comparable Sales Analysis (CSA) to determine the value.

STAFF REMARKS:

On October 16, 2007, the Board of Trustees approved the purchase of 42.22 acres in Monroe County for the Florida Keys Ecosystem Florida Forever project. The site contains a diversity of habitat types: 12.39 acres of tropical hardwood hammock; 16.42 acres of mangrove; 7.97 acres of open water (interior wetland); 5.04 acres of buttonwood wetland; and 0.40 acre of disturbed area. According to the managing agency, Monroe County Land Authority (MCLA), there are no imperiled species, natural communities or historical or archaeological resources on the property to be surplusd.

After the purchase was finalized, it was discovered that the surveyor's field crew failed to identify an 8-foot by 105-foot encroachment of several gravesites within the southeast boundary of the property. The cemetery encroachment is identified as a 0.40-acre area of mowed lawn within which are four headstones and partial grave sites that constitute the 0.019-acre parcel proposed for surplus. No significant natural or historic resources occur on the 0.40-acre area. The remainder of the mowed area, approximately 0.381 acre, will be retained in state ownership and restored to its native habitat. The adjacent land owner, SKC, has acknowledged the encroachment and has agreed to purchase the affected 0.019-acre parcel. The four corners of the encroachment have been marked with metal posts that measure 2½ inches by 6 foot. The "carving out" of this sliver of land will not adversely affect MCLA's ability to manage the property for conservation purposes nor does it have any impact on the larger parcel. The Acquisition and Restoration Council reviewed and recommended approval of this item on April 16, 2010.

Constitution and Statute Requirements

The Board of Trustees must make the determination pursuant to Article X, Section 18, Florida Constitution, and section 253.034(6), F.S., that the property is no longer needed for conservation purposes. In this case, had the original survey depicted the presence of headstones and gravesites on the parcel, it would not have been included in the purchase of this conservation land. Further, DEP has reviewed the information from the managing agency, and all other relevant data available, concerning the 0.019-acre parcel and was not able to identify any

Substitute Item 3, cont.

significant ecological or historical resources. DEP also believes that the property is not suitable for restoration due to the presence of headstones and gravesites. Based upon that review, DEP recommends that the Board of Trustees determine the property is no longer needed for conservation and is suitable for surplus.

Noticing

Pursuant to sections 253.111 and 253.034, F.S., the county, state agencies and universities were notified of the proposed sale and did not express any interest in the property. Pursuant to section 253.115, F.S., owners within 500 feet of the subject property were also notified and no objections or comments were received.

Management Review

The manager of the property, Monroe County Land Authority, has no objection to the sale of this parcel.

Comprehensive Plan

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

(See Attachment 3, Pages 1-15)

RECOMMEND APPROVAL

**Substitute Item 4 Panama City-Bay County Airport and Industrial District
Conveyance/Determination**

REQUEST: Consideration of (1) a determination that, pursuant to Article X, section 11, of the Florida Constitution, and section 18-21.004(1)(a), F.A.C., it is in the public interest to sell 4.2 acres, more or less, of filled, formerly submerged, sovereignty lands; and (2) a request to convey the 4.2 acres to the Panama City-Bay County Airport and Industrial District.

COUNTY: Bay

APPLICANT: Panama City-Bay County Airport and Industrial District (Airport)

LOCATION: Sections 18 and 19, Township 03 South, Range 14 West

Substitute Item 4, cont.

CONSIDERATION: \$210,000, to be deposited into the Internal Improvement Trust Fund

<u>PARCEL</u>	<u>ACRES</u>	<u>APPRAISED BY</u> <u>Chandler</u> <u>(04/20/10)</u>	<u>APPROVED</u> <u>VALUE</u>	<u>PURCHASE</u> <u>PRICE</u>	<u>BUYER'S</u> <u>CLOSING</u> <u>DATE</u>
<u>BOT</u>	<u>4.2</u>	<u>\$210,000</u>	<u>\$210,000</u>	<u>\$210,000</u>	<u>120 days after</u> <u>BOT approval</u>

STAFF REMARKS:

Background

The Airport has applied to purchase a 4.2-acre, more or less, parcel of filled, formerly submerged, sovereignty land located at the end of the existing Panama City - Bay County Airport runway and landlocked by lands owned by the Airport. The filling occurred under authority granted by a 1970 Board of Trustees easement for an instrument landing system. The Airport is in the process of selling the existing airport property in anticipation of a planned relocation to a new airport facility later this year. The existing airport is under contract for sale. Sale of the 4.2 acres to the Airport will eliminate the Board of Trustees' inholding.

Constitutional and Rule Requirements

Pursuant to Article X, section 11, of the Florida Constitution, and section 18-21.004(1)(a), F.A.C., the Board of Trustees may sell sovereignty land if an evaluation of the benefits and costs of the request shows that the sale is in the public interest. The Department of Environmental Protection (DEP) recommends that the Board of Trustees find that it is in the public interest to sell the 4.2 acres to the Airport for the following reasons:

- the state-owned land is landlocked;
- obtaining access and utilities for management could be costly and problematic; and
- the sale of this parcel relieves the state of the obligation and responsibility to manage an isolated remnant parcel.

Proposal

Pursuant to section 253.03, F.S., the Board of Trustees is charged with the disposition of Board of Trustees' lands. DEP does not recommend retaining the 4.2 acres in state ownership because the property is landlocked, making management and oversight problematic for the Board of Trustees. There are no specific guidelines in either the statutes or the Board of Trustees' rules for determining the sales price for the 4.2 acres because the request involves land filled under Board of Trustees' easement number 25091 (2273-03) to the Airport. Existing statutes and rules pertain only to unauthorized filled land. An appraisal was requested to obtain two values for the property. The first estimated the contributory market value of the 4.2 acres to the overall Airport property and recognized the highest and best use of the land and the potential for rezoning and redevelopment after the airport operations moved to the new location. The second estimated the contributory value in use, subject to all existing land use constraints and Federal Aviation Administration Regulations. The former is the higher of the two values. The higher value is recommended as the sales price because it is consistent with what the Airport will receive for the sale of the property.

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Easement

As a condition of approval of the sale to the Airport, DEP is recommending that the Airport execute a release of easement relinquishing any interest it may have in the 1970 easement area, which extends beyond the area to be conveyed to the Airport. The additional lands include structures associated with airport operations, including landing lights. Although the original easement does not require restoration of the easement area at termination, a special condition will be included in the release of easement requiring removal within 180 days from execution of the release of easement, which condition will survive termination of the easement. The release of easement will be executed prior to or concurrent with closing on the sale to the Airport.

Noticing

The Airport is the only landowner within 500 feet of the 4.2 acres, and the Airport is the upland riparian landowner; therefore, no noticing was required pursuant to sections 253.111 and 253.115, F.S.

Comprehensive Plan

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

(See Attachment 4, Pages 1-4)

RECOMMEND APPROVAL SUBJECT TO: (1) RECEIPT OF A RELEASE OF EASEMENT FROM THE AIRPORT; AND (2) RECEIPT OF A SURVEY OF THE SURPLUS LAND ACCEPTABLE TO DEP'S BUREAU OF SURVEY AND MAPPING