

AGENDA
BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
SEPTEMBER 28, 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 July 29, 2010 Cabinet Meeting.

(See Attachment 1, Pages 1-19)

RECOMMEND APPROVAL

Substitute Item 2 September 2010 Florida Forever Five-Year Plan/Florida Forever Acquisition Priority List/Florida Forever Capital Improvements Priority List/FY2010-2011 Work Plans

REQUEST: Consideration of the (1) September 2010 Florida Forever Five-Year Plan; (2) September 2010 Florida Forever Land Acquisition Priority List and FY2010-11 Work Plan; and (3) September 2010 Florida Forever Capital Improvements Priority List and FY2010-11 Work Plan.

STAFF REMARKS:

(1) September 2010 Florida Forever Five-Year Plan: The September 2010 Florida Forever Five-Year Plan was prepared pursuant to Chapter 259, F.S., and Rule 18-24, F.A.C. During the Acquisition and Restoration Council (ARC) hearings/meetings on February 18-19, April 15-16, and June 10-11, 2010, ARC recommended the following adjustments to the list approved on March 9, 2010: (a) approval of four new projects; (b) redesign of Camp Blanding-Osceola Greenway, dividing it into two projects; (c) boundary amendments to six projects; (d) removal of three projects (includes Camp Blanding-Osceola Greenway) from the priority list; and (e) placement of projects into five categories within which projects were ranked in numerical priority order[†].

<u>New Projects Added to List</u>	<u>Total Acres</u>	<u>County</u>
Peace River Refuge (LTF-17) [†]	3,855	Desoto
Peaceful Horse Ranch (CCL-13)	4,414	Desoto
Suwannee County Preservation (LTF-24)	1,449	Suwannee
Wolfe Creek Forest (CNL-26)	10,645	Santa Rosa

<u>Redesigned Projects Added to List</u>	<u>Total Acres</u>	<u>County</u>
Camp Blanding-Raiford Greenway*(CNL-15)	33,861	Bradford/Baker/Clay
Raiford-Osceola Greenway*(LTF-12)	67,457	Baker/Union

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<u>Projects with Boundary Amendments</u>	<u>Acres +/-</u>	<u>County</u>
Atlantic Ridge Ecosystem (PRI-14)	(1,532)	Martin
Big Bend Swamp/Holopaw Ranch (LTF-8)	(7,722)	Osceola
Brevard Coastal Scrub Ecosystem (PRI-2)	(3,877) [‡]	Brevard
Charlotte Harbor Estuary (SC-3)	(2,260)	Charlotte/Lee/Sarasota
Ochlockonee River Conservation Area (LTF-3)	30.64	Gadsden/Leon
Perdido Pitcher Plant Prairie (CNL-13)	(658)	Escambia

<u>Projects Removed from List</u>	<u>Reason</u>	<u>County</u>
Camp Blanding-Osceola Greenway	Redesigned	Baker/Union/Bradford/Clay
Econ-St. Johns Ecosystem	Complete**	Orange/ Seminole/Volusia
Twelve Mile Swamp	Complete**	St. Johns

* Redesigned Camp Blanding-Osceola Greenway Florida Forever project.

** As stated by St. Johns River Water Management District: resources are adequately protected; no more willing sellers.

† Project Categories: CCL – Climate Change Lands project; CNL – Critical Natural Lands project; LTF – Less-Than-Fee project; PRI –

Partnerships & Regional Incentives project; SC – Substantially Complete project. Numbers indicate priority rank within the project category.

‡ Includes 183 acres that were removed at the request of two owners.

The September 2010 Florida Forever Five-Year Plan is being submitted in digital format.

(2) ARC’s Recommended September 2010 Florida Forever Priority List and FY2010-11 Work Plan for Land Acquisition Projects: The September 2010 Five-Year Plan includes the September 2010 Florida Forever Priority List of acquisition projects adopted by ARC on June 11, 2010 and proposed for approval by the Board of Trustees. This list includes 112 projects each of which was ranked within one of five categories: 14 Climate Change Lands projects; 38 Critical Natural Lands projects; 24 Less-Than-Fee projects; 30 Partnership & Regional Incentives projects; and 6 Substantially Complete projects. Pursuant to section 259.04(1)(c), F.S., “... *the board shall approve, in whole or in part, the lists of projects in the order of priority in which such projects are presented*” [see also s. 259.105(14), F.S.].

Section 295.105(17), F.S., requires the Department of Environmental Protection’s (DEP) Division of State Lands (DSL) to develop, and ARC to adopt an annual Florida Forever Work Plan (work plan). The Land Acquisition Work Plan was submitted to ARC for public review and comment during the August 2010 public hearing/meeting and was adopted on August 13, 2010. A copy of the work plan is required to be provided to the Board of Trustees no later than October 1 of each year. The work plan is being submitted with this agenda item for your review.

Accomplishments of Florida Forever Acquisition Program: Since its inception in July 2001 through March 2010, the state’s Florida Forever land acquisition program has been extremely successful, as evidenced by the protection of:

- 248,650 acres of Strategic Habitat Conservation Areas;
- 411,980 acres of rare species habitat conservation areas, including over 620 sites that are habitats for over 246 different rare species, 108 of which are state-listed as endangered, 47 state-listed threatened, and 22 species of special concern;
- 628,590 acres of ecological greenways;
- 57,240 acres of under-represented natural communities;

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- 76,100 acres of natural floodplains;
- 637,210 acres important to significant water bodies;
- 5,120 acres of fragile coastline;
- 276,070 acres of functional wetlands;
- 615,530 acres of significant groundwater recharge areas;
- 130 miles of priority recreational trails;
- 297,890 acres of sustainable forest land; and
- 572 archaeological and historic sites.

These acreages were derived from the most recently updated Florida Forever data layers, which are continuously updated by Florida Natural Areas Inventory to reflect the most current scientific analyses of Florida's natural resources. Additionally, the acreages recorded for each measure often overlap, and thus should not be added together. Collectively, the State of Florida has protected over 650,000 acres of land with \$2.73 billion in Florida Forever funds through June 30, 2010.

All property within the boundaries of the Florida Forever acquisition projects, unless specifically noted otherwise, is proposed to be purchased, in fee-simple or a lesser interest, for conservation purposes.

(3) ARC's Recommended September 2010 Florida Forever Priority List and FY2010-11 Work Plan for Capital Improvements Projects: Section 259.105(3)(b), F.S., requires that, at a minimum, 3 percent, and no more than 10 percent, of the funds allocated to DEP for the acquisition of lands and capital project expenditures shall be spent on capital project expenditures identified during the time of acquisition to meet land management planning activities necessary for public access. Pursuant to section 18-24.008, F.A.C., the managing agencies submitted their priorities for such capital expenditure projects for the FY2008-09 appropriation to ARC for review, discussion, and adoption at its meeting on February 18-19, 2010. This list subsequently was approved by the Board of Trustees at its meeting on March 9, 2010. The Florida Forever program was unfunded in FY2009-10. For FY2010-11 DEP has held a total of \$525,000 (equal to the maximum 10%) in reserve for capital improvement expenditures from its Florida Forever allocation of \$5,250,000. Instead of initiating a new application and ranking cycle, the managers opted to apply the new funding to the previously approved work plan. ARC reviewed and adopted the revised capital improvements work plan at its meeting on August 12-13, 2010. The list includes 23 capital improvement projects, 15 of which are currently funded in the work plan. The list and work plan are being submitted with this agenda item for your review.

Comprehensive Plan

The September 2010 Florida Forever Land Acquisition Priority List and the FY2010-2011 Florida Forever Projects for Capital Improvements Priority List 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 1-9)

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RECOMMEND (1) ACCEPTANCE OF THE SEPTEMBER 2010 FLORIDA FOREVER FIVE-YEAR PLAN; (2) APPROVAL OF ARC'S RECOMMENDED SEPTEMBER 2010 FLORIDA FOREVER PRIORITY LIST OF LAND ACQUISITION PROJECTS; AND (3) APPROVAL OF ARC'S RECOMMENDED FY 2010-2011 FLORIDA FOREVER PRIORITY LIST OF PROJECTS FOR CAPITAL IMPROVEMENTS.

**Substitute Item 3 **DMS Partial Release of Lease/Leon County School Board Lease/
Bloxham Building****

REQUEST: Consideration of a (1) partial release of Board of Trustees' Lease No. 3973 by the Department of Management Services for the Bloxham Building; and (2) 50-year lease to the Leon County School Board for the Bloxham Building.

COUNTY: Leon

APPLICANT: Leon County School Board (School Board)

LOCATION: Section 36, Township 01 North, Range 01 West

CONSIDERATION: \$300 annual administrative fee per section 18-2.020(8), F.A.C.

STAFF REMARKS: The Department of Management Services (DMS) currently leases multiple downtown Tallahassee parcels, including the Bloxham Building (Bloxham), under Board of Trustees' Lease No. 3973. DMS was previously subleasing a portion of Bloxham to the Department of Revenue (DOR), but DOR staff has now been relocated to new office facilities in the Capital Circle Office Complex. DMS continues to sublease a portion of Bloxham to the Florida Fish and Wildlife Conservation Commission (FWC) with 25 to 30 full time employees currently utilizing the building. DMS is requesting a partial release of master Lease No. 3973 to remove Bloxham enabling the School Board to lease Bloxham directly from the Board of Trustees for educational purposes.

Property History

On November 15, 2006, state agencies were noticed by the Department of Environmental Protection's (DEP) Division of State Lands (DSL) that Bloxham was being evaluated for lease to the School Board under the DMS Workspace Management Initiative, and no objections were received. The Workspace Management Initiative was designed to improve office space quality and efficiency as well as controlling costs associated with property management. On December 19, 2006, DMS presented the Workspace Management Initiative Report to the Board of Trustees for discussion on the state-owned property in downtown Tallahassee. As part of this discussion, it was recognized that the School Board was interested in leasing Bloxham for educational purposes. DMS agreed to execute a partial release of Lease No. 3973 removing Bloxham which

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enables the Board of Trustees to lease the property directly to the School Board in the future. The Board of Trustees directed DSL to continue to work towards this objective.

While DEP has delegation to approve this type of partial release and lease, DEP committed to bring the partial release of DMS master Lease No. 3973 to remove Bloxham and direct lease to the School Board for Bloxham back before the Board of Trustees for final approval. The item was presented before the Board of Trustees on December 18, 2007, but the School Board withdrew the request based on budgeting issues.

In the 2009 legislative session, Senate Bill 1804 directed DSL to begin the disposition process for five downtown buildings including Bloxham. Pursuant to section 253.034(6)(f), F.S., and section 18-2.019, F.A.C., state agencies, universities, Leon County and the City of Tallahassee were all notified of land available for lease. Florida State University leased three of the buildings with a lease now pending on a fourth building. Leon County and the City of Tallahassee expressed an interest for the School Board to utilize Bloxham and the School Board sent a formal resolution to DSL requesting a 50-year lease.

Current Requests

The School Board is requesting a 50-year lease for Bloxham upon execution of a partial release of DMS master Lease No. 3973 by DMS and intends to use Bloxham as an educational facility. The School Board will have five years from the date of execution of said lease to provide written confirmation to DSL that they have occupied Bloxham as an educational facility. If written confirmation is not received by DSL within five years from the date of execution of said lease, the Board of Trustees will have the sole option, of terminating said lease and requiring the School Board to execute a release of lease. The School Board has also agreed to sublease a portion of the building to FWC for one to four years for governmental purposes. FWC will be moving to the Bryant Building after the sublease has terminated with the School Board. FWC has indicated that one to four years for the sublease are needed while the Bryant Building is being renovated to accommodate the FWC employees being transferred from the Bloxham.

The sublease between FWC and the School Board will be approved under separate delegation and executed simultaneously with the lease and the partial release of DMS master Lease No. 3973 presented in this request if approved.

DEP is recommending the Board of Trustees approve the request for the partial release of DMS master Lease No. 3973 for Bloxham and approve a 50-year lease of Bloxham with the School Board. The location of the proposed school lends itself to serving the rebounding population of downtown residents and children of state employees.

Comprehensive Plan

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

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compliance. The proposed action is consistent with the adopted plan according to a letter received from the Tallahassee-Leon County Planning Department.

(See Attachment 3, Pages 1-38)

RECOMMEND APPROVAL

**2nd Substitute Item 4 BOT/United States Of America/National Park Service/Donation/
Conveyance/Big Cypress National Preserve/Big Cypress National
Preserve Addition**

REQUEST: Approval to donate and convey 29,412.88 acres of state-owned land in Big Cypress National Preserve and Big Cypress National Preserve Addition to the United States of America on behalf of the National Park Service, as follows: (1) donate and convey 29,024.98 acres immediately upon Board of Trustees' approval; and (2) donate and convey the remaining 387.9 acres upon the completion by the National Park Service of all due diligence products.

COUNTIES: Collier and Miami-Dade

APPLICANT: The United States of America on behalf of the National Park Service (NPS)

LOCATION: Big Cypress National Preserve (Preserve) and Big Cypress National Preserve Addition (Addition), (collectively, Big Cypress)

CONSIDERATION: \$4,047,456 to be deposited into the Internal Improvement Trust Fund

STAFF REMARKS: Big Cypress was established by the U. S. Congress in 1974 and expanded in 1988 in order to assure the preservation, conservation, and protection of the natural, scenic, hydrologic, floral and faunal, and recreational values of the Big Cypress Watershed in the State of Florida and to provide for the enhancement and public enjoyment thereof.

Legislative History and Requirements

1973 – Section 380.055, F.S., The Big Cypress Conservation Act of 1973 (Act), authorized the Board of Trustees to spend \$40,000,000 for land acquisition in the Preserve and to donate the acquired lands. By this Act the state has determined that donation of the lands to the federal government will assure preservation of the watershed.

October 1974 – U.S. Congress adopted P.L. 93-440 establishing Big Cypress.

December 1974 – Board of Trustees signed an agreement with NPS to donate and convey title to all state-owned lands within Big Cypress to NPS.

April 1988 – U.S. Congress adopted P.L. 100-301 establishing the Addition which substantially increased the acreage of Big Cypress and provided for the federal government to fund 80 percent

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of the land acquisition costs and the state to fund 20 percent of the land acquisition costs in the Addition (80/20 cost share). The federal government has agreed to reimburse the State of Florida any acquisition costs paid by the state over 20 percent.

Land Requested to be Conveyed – 29,412.88 total acres of state-owned land to NPS

Pursuant to the aforementioned legislation, NPS is requesting that the Board of Trustees convey 29,412.88 total acres, 113.49 acres located within the Preserve and 29,299.39 acres located within the Addition, to NPS. The land is to be conveyed “as is” and NPS is responsible for funding and completing all due diligence products.

Additionally, the Board of Trustees’ conveyances to NPS will contain five deed encumbrances. These are summarized as follows: (1) Board of Trustees will retain all oil, gas, and mineral rights; (2) Department of State Bureau of Historical Resources will retain all interests in cultural resources; (3) Board of Trustees will retain right to levy and collect applicable taxes on alcoholic beverages, cigarettes and other tobacco products; (4) title will automatically revert to Board of Trustees in the event NPS ceases to use the land for the purpose of conservation and protection of the natural resources and scenic beauty of Big Cypress; and (5) the conveyances are subject to outstanding easements, reservations, and other interests of record. These five encumbrances are found in prior Board of Trustees’ conveyances to NPS within Big Cypress. Moreover, including these encumbrances is consistent with prior Board of Trustees’ action on October 8, 1980.

113.49 acres in the Preserve – This acreage includes (1) 41.94 acres of land acquired through tax deed sales, and (2) 71.55 acres of former Florida Department of Transportation (FDOT) land located outside the Interstate 75 (I-75) corridor which is being donated to the Board of Trustees. NPS is still pursuing due diligence on the 71.55 acres of FDOT land, and this land will be conveyed upon completion of the due diligence products and acceptance by the Board of Trustees.

29,299.39 acres in the Addition – This acreage includes (1) 3,503.89 acres of land acquired at tax deed sales and state land acquisitions from private parties; (2) 25,479.15 acres of remainder parcels previously acquired by FDOT in connection with the construction of I-75 and subsequently conveyed to the Board of Trustees pursuant to a Joint Participation Agreement with the Department of Natural Resources (DNR), predecessor to the Department of Environmental Protection (DEP); and (3) 316.35 acres which will be conveyed once NPS completes all due diligence products.

Acquisition Expenditures

Preserve Acquisitions – Pursuant to the Act, the state was authorized to spend \$40,000,000 on land acquisitions in the Preserve and donate the land purchased to NPS. The state has satisfied this legislative requirement by spending \$41,533,033 in the Preserve, and the majority of the land has previously been donated to NPS. The Act further stipulated that NPS would spend an amount at least equal to the acquisition cost of the land to be donated by the state. NPS has greatly exceeded that legislative requirement by having spent \$180,572,000 in the Preserve to date. The state has completed all of its acquisitions in the Preserve while NPS has 844 acres remaining to be acquired. The Board of Trustees-owned land can be donated and conveyed to NPS because both parties have satisfied the spending requirements.

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Addition Acquisitions – Pursuant to P.L. 100-301, the acquisitions in the Addition are to be funded using the 80/20 cost share provision with the state being reimbursed for any acquisition cost exceeding 20 percent of the total acquisition cost. The 80/20 cost share is based on acquisition costs only and does not include amounts spent for administrative and ancillary costs. The state has completed all of its acquisitions in the Addition at a cost of \$19,071,963. While NPS has 1,567 acres left to be acquired, it is estimated that NPS has now spent \$56,050,571 on acquisitions in the Addition. This brings the combined total acquisition cost to date to \$75,122,534. This early conveyance results in the cost share ratio currently being at 75(federal)/25(state) which requires the federal government to reimburse the state \$4,047,456 in order to reach the 80/20 cost share requirement.

The majority of the 1,567 acres that NPS will acquire in the Addition has been forwarded for condemnation proceedings to the U.S. Attorney's Office. Title to the condemnation tracts has not yet passed to NPS nor has compensation been paid, which NPS estimates to be approximately \$5,561,500. However, because NPS has not completed all of the outstanding acquisitions and is requesting the Board of Trustees' early conveyance of the state-owned parcels, NPS cannot include the estimated \$5,561,500 in calculating the 80/20 cost share provision.

NPS is requesting the early conveyance to be able to provide immediate oversight, enforcement, and effective management of the conservation lands within Big Cypress.

Acquisition Cost Reconciliations

Preserve Cost Reconciliation – All state-owned land in the Preserve is to be donated to NPS, and it has been determined that NPS and the state have satisfied their acquisition requirements on the Preserve lands.

Addition Cost Reconciliation – All state-owned land in the Addition is to be donated to NPS, and it has been determined that, due to the requested early conveyance. NPS must reimburse the state pursuant to the 80/20 cost share provision for the purchase of lands in the Addition. The acquisition costs for Addition lands were reconciled to verify the reimbursement amount.

The state's \$19,071,963 in acquisitions in the Addition were conducted over many decades so detailed records of the early acquisitions are not always available to determine a parcel's cost. In addition, a variety of acquisition methods were used so there is no single methodology that could be utilized to calculate the total cost of the acquisitions in the Addition. DEP's Division of State Lands (DSL) coordinated with DEP's Office of Finance and Accounting and DSL's land records inventory system (BTLDS) for all cost and acreage reconciliations. A different cost estimating approach was required to calculate the cost for both types of ownership (tax deed sales and FDOT remainder parcels), and the total for each category was then combined to reach \$19,071,963.

Tax Deed Category – For tax deed sale parcels, the cost was stated on the face of the deed. For other deeds included in this category, cost was based on stated cost on the deed when available, or the cost was calculated utilizing the documentary stamp rates in effect

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on the date of the deed and the amount of documentary stamps indicated on the deed. A sample of documentary stamp estimation was checked against parcels with known cost and no significant deviations were noted. The total cost calculation for the tax deed category is \$1,460,190.

FDOT Remainder Parcels Category – The FDOT remainder parcels are the parcels acquired by FDOT and consist of both condemnation parcels and deeds from individual owners. In 1986, FDOT entered into a Joint Participation Agreement with DNR, predecessor to DEP, regarding land acquisition for I-75 and adjacent environmentally sensitive areas in Collier County. The parcels not needed for road facilities were later transferred to the Board of Trustees by donation via quitclaim deeds. No per parcel cost accounting was recovered for the FDOT parcels, and the deeds to the Board of Trustees contain no cost information. The total cost of parcels taken through condemnation proceedings utilized the final judgment cost where available. The estimated total cost of the remaining condemnation parcels utilized the “Good Faith Estimate of Value” stated in the Orders of Taking. After extensive research, DSL has determined due to lack of parcel transaction records from the 1980s, the Certification of Board Actions are currently considered the best evidence of the actual DNR funds utilized for acquisition of the FDOT remainder parcels. Therefore, the total cost calculation for the FDOT remainder parcels category is \$17,611,773.

Project Approvals

NPS is working in a cooperative effort with DEP and other affected state agencies towards finalizing the Management Plan for the Addition lands.

Because the conveyance of Big Cypress lands to NPS for continued conservation purposes was legislatively agreed to pursuant to section 380.055, F.S., and 16 U.S.C. §698f(d), the Acquisition and Restoration Council’s recommendation was not solicited. 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 1-106)

RECOMMEND DEFERRAL

Item 5 Deepwater Horizon Oil Spill Incident Status Update/BP/Gulf of Mexico

Status update of the efforts to protect Florida’s shoreline from the Deepwater Horizon oil spill incident in the Gulf of Mexico.

RECOMMEND INFORMATIONAL