

**AGENDA**  
**BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND**  
**MARCH 19, 2013**

**Attachments to the items below can be viewed at the following link:**  
[http://www.dep.state.fl.us/secretary/cab/public\\_notices.htm](http://www.dep.state.fl.us/secretary/cab/public_notices.htm)

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**Item 1 Board of Trustees/Marina Manor II Condominium Association of Naples, Inc./  
Naples Bay Boat Dock Association, Inc. Exchange Agreement/Determination/  
Quitclaim Deed Acceptance**

**WITHDRAWN FROM THE MARCH 7, 2013 AGENDA**

**REQUEST:** Consideration of (1) a determination, pursuant to Article X, section 11 of the Florida Constitution and rule 18-21.004(1)(a), F.A.C., that an exchange of a 0.34-acre parcel of sovereignty submerged lands in Naples Bay is in the public interest; (2) approval of an exchange agreement to convey the 0.34-acre parcel of sovereignty submerged lands in exchange for a 0.44-acre parcel of privately-owned submerged lands in Naples Bay owned by Naples Bay Boat Dock Association, Inc.; and (3) acceptance of a quitclaim deed releasing any right, title or interest held by Naples Bay Boat Dock Association, Inc., in an additional 0.16-acre parcel of submerged lands.

**VOTING REQUIREMENT FOR APPROVAL:** Three votes

**APPLICANTS:** Marina Manor II Condominium Association of Naples, Inc. (MMII) and  
Naples Bay Boat Dock Association, Inc. (NBBDA)

**LOCATION:** 1100 8<sup>th</sup> Avenue South, Naples  
Naples Bay, Collier County

**CONSIDERATION:** A 0.44-acre parcel of privately-owned submerged land; \$90,200 to be deposited into the Internal Improvement Trust Fund; and a quitclaim deed releasing any interest held by NBBDA to an additional 0.16-acre parcel of submerged land to provide clear title for the Board of Trustees.

<u>PARCEL</u>	<u>ACRES</u>	APPRAISED BY: Armalavage <u>(11/26/12)</u>	EXCHANGE <u>VALUE</u>	CLOSING <u>DATE</u>
BOT	0.34	\$28,100	\$28,100	120 days From BOT
NBBDA	0.44	\$24,600	\$24,600*	Approval

\*together with \$90,200 from MMII and NBBDA's quitclaim deed releasing any interest held in the 0.16-acre parcel of submerged lands

**STAFF REMARKS:**

**Background**

NBBDA was formed many years ago to control and manage all of the docks waterward of, and on behalf of, the MMII upland facility, and does not own any of the upland riparian property. MMII and NBBDA have requested to exchange the 0.44-acre parcel of privately-owned submerged lands for the 0.34-acre parcel of sovereignty submerged lands which is located between two parcels of submerged lands that were conveyed (Deed Nos. 19871 and 20958) by the Board of Trustees, in 1951 and 1955, to predecessors in title.

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**Item 1, cont.**

NBBDA is of the opinion that when the two parcels adjacent to the 0.34-acre parcel were originally conveyed, it was an oversight that the 0.34-acre parcel was not included, as it is situated directly between the two conveyed parcels and creates an 80-foot gap. NBBDA is of the opinion that this gap, between the privately-owned submerged lands, was not intended to be created when the Board of Trustees originally conveyed the two parcels.

The Department of Environmental Protection (DEP) has found no evidence to support this opinion and believes the gap was actually created as a result of a platted road being located between the two upland ownerships and riparian to the gap at the time of the conveyances. Because errors existed in both deeds, corrective deeds (Deed Nos. 19871A and 20958A) were issued in 1968 clarifying the existence of the gap. In 1998, DEP, under delegation of authority, issued MMII and NBBDA a five-year sovereignty submerged lands lease for its registered grandfathered facility located in the gap. The lease has not been renewed since 2003 because of non-compliance issues. In addition, 26 slips located in the gap have been sold, further complicating the situation.

Since 2006, DEP, MMII and NBBDA have been negotiating the resolution of the issues pertaining to this site which include the: (1) unpaid revenues due to the Board of Trustees from boat slip sales on sovereignty submerged lands; (2) need for sufficient upland interest and riparian rights necessary for the lease to be renewed; (3) review of the legal descriptions in the Board of Trustees' deeds affecting this site; and (4) discussion of a potential resolution via a submerged lands exchange. MMII and NBBDA's request is the result of that negotiation process.

**Project Details**

MMII and NBBDA are requesting an exchange of the 0.34-acre parcel of sovereignty submerged lands, currently used as a private 26-slip docking facility, for the 0.44-acre parcel of privately-owned submerged lands. DEP has determined that there are no significant resources on the 0.34-acre parcel of sovereignty submerged lands. If the Board of Trustees approves MMII and NBBDA's request: (1) the Board of Trustees will convey, by quitclaim deed, the 0.34-acre parcel of sovereignty submerged lands to MMII; (2) NBBDA will convey, by warranty deed, the 0.44-acre parcel of privately-owned submerged lands to the Board of Trustees; (3) MMII will pay a negotiated amount of \$90,200 to be deposited into the Internal Improvement Trust Fund; and (4) NBBDA will convey, by quitclaim deed, to the Board of Trustees the 0.16-acre parcel of submerged lands, purportedly conveyed to NBBDA by a private deed, to vest clear title in the Board of Trustees.

MMII and NBBDA shall pay all costs associated with title insurance commitment, title insurance policy, and the recording of all deeds associated with this transaction and pay the ad valorem taxes, if any, assessed against the 0.44-acre parcel of privately-owned submerged lands and the 0.16-acre parcel of submerged lands, in accordance with section 196.295, F.S.

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**Item 1, cont.**

**Constitutional and Rule Requirements**

Pursuant to Article X, section 11 of the Florida Constitution and rule 18-21.004(1)(a), F.A.C., the Board of Trustees may convey sovereignty lands if determined by the Board of Trustees to be in the public interest. DEP offers the following to assist the Board of Trustees in making an affirmative determination that the proposed exchange is in the public interest:

- Board of Trustees' ownership of the 0.44-acre parcel of privately-owned submerged lands adjacent to the navigation channel will provide additional assurance that the channel will not be compromised by potential future dock expansions;
- accepting a quitclaim deed for the 0.16-acre parcel of submerged lands adjacent to the navigational channel will clear title to this parcel for which NBBDA has a deed to;
- the Board of Trustees will receive \$90,200, to be deposited into the Internal Improvement Trust Fund, as additional compensation for this consideration; and
- the proposed exchange resolves potential litigation on whether the original intent of the Board of Trustees was to convey lands with a gap between the two deeded areas.

**Noticing**

Pursuant to section 253.115, F.S., 33 property owners, within a 500-foot radius of the proposed exchange parcels, were specifically noticed and no objections were received.

**Comprehensive Plan**

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

(See Attachment 1, Pages 1-18)

**RECOMMEND APPROVAL**

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**Substitute Item 2     Damascus Peanut Company Option Agreement/Florida's First Magnitude Springs Florida Forever Project**

**REQUEST:** Consideration of an option agreement to acquire 599.45 acres within the Florida's First Magnitude Springs Florida Forever project from Damascus Peanut Company.

**VOTING REQUIREMENT FOR APPROVAL:** Two members, one of whom is the Governor, when four members are voting; or any two members, when three members are voting.

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**Substitute Item 2, cont.**

**COUNTY:** Madison

**LOCATION:** Sections 33 through 35, Township 01 South, Range 11 East

**CONSIDERATION:** \$2,153,054.62

<u>PARCEL</u>	<u>ACRES</u>	APPRAISED BY:		<u>APPROVED VALUE</u>	<u>SELLER'S PURCHASE PRICE</u>	<u>TRUSTEES' PURCHASE PRICE</u>	<u>OPTION DATE</u>
		Carlton (04/11/12)	Sutte (04/11/12)				
Damascus	608.8*	\$2,009,000	\$2,190,000	\$2,160,000**	\$1,708,000*** (100%)	\$2,153,054.62****	April 15, 2013

\* This represents the appraised acreage amount.

\*\* The value was reduced due to a reduction in acreage to 599.45 once the survey was completed.

\*\*\* Purchase date February 15, 2012

\*\*\*\* \$3,592 per acre

**STAFF REMARKS:** The parcel is located within the Florida's First Magnitude Springs Florida Forever project. This project is ranked first in the Florida Forever Partnerships and Regional Incentives project category, which was approved by the Board of Trustees on December 11, 2012. The project contains 14,785 acres, of which 9,071 acres have been acquired or are under agreement to be acquired. If the Board of Trustees approves this agreement, 5,714 acres, or 39 percent of the project, will remain to be acquired.

**Project Description**

Large springs of clear, continuously flowing water are among Florida's most famous and important natural and recreational resources. The cavernous, water-filled rocks of the Floridan Aquifer supply the largest springs. By preserving land around springs, the Florida's First Magnitude Springs project will aid in the protection of springs, karst windows, and the Floridan Aquifer from the effects of commercial, residential, and agricultural runoff; clearcutting and mining; and unsupervised recreation.

Acquiring this parcel will fill a critical gap in state lands located along the Suwannee River that are designed to protect surface water flow, water recharge, and provide critical greenway linkages. This parcel borders land owned by the Suwannee River Water Management District (SRWMD) that is managed by the Florida Forest Service as the Twin Rivers State Forest and the Florida Fish and Wildlife Conservation Commission as the Twin Rivers Wildlife Management Area. Because this parcel is bordered by conservation lands and has county-maintained road access, its location makes it attractive for development which could create management difficulties.

This parcel is undeveloped and is a predominately natural, mixed pine and hardwood community, with approximately 90 acres of floodplain forest buffering the Suwannee River. Floodplain wetland communities comprise approximately 50 percent of its acreage. The tract provides approximately 1.6 miles of river frontage on the west bank of the river and mirrors the SRWMD's 1,222-acre Anderson Spring Tract on the east bank. This parcel exhibits numerous

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**Substitute Item 2, cont.**

drainage features, principally river sloughs, and is within the groundwater discharge zone of the Suwannee River. The acquisition of this parcel will provide protection for spring shed and aquifer recharge, as well as floodplain and surface water protection for the Suwannee River.

This parcel lies at least partially within the springshed for Anderson Spring, a second magnitude spring vent, located on state lands directly across the Suwannee River from this parcel. While the spring vent does not exist on this parcel, cave divers have mapped a connecting cave system going west under the Suwannee River channel toward this parcel then branching into two sections which continue traveling inland. Thus, this parcel is over a major portion of Anderson Springs's conduit and has a high spring recharge protection potential by its proximity.

A large number of springs are located along the Suwannee River, and its tributary, the Withlacoochee River North. Ranging both north and south of this parcel, those spring sites that are part of the Florida's First Magnitude Springs Florida Forever project boundary include Hardee Springs, Madison Blue Springs, Falmouth Spring, and Lafayette Blue Spring.

**Mortgages and Liens**

All mortgages and liens will be satisfied at the time of closing. There is a 175-foot-wide easement in favor of Florida Power Corporation. There is a 50-foot-wide easement in favor of Florida Gas Transmission located within the 175-foot-wide easement. Lastly, there is a 16.5-foot-wide easement in favor of AT&T along the I-10 right-of-way line.

With the exception of approximately 100 acres, there are two outstanding oil, gas, and mineral (OGM) reservations over the parcel. The first reservation covers 230 acres and reserves 100 percent interest in OGM. The second reservation covers 290 acres and reserves 50 percent interest in OGM. Both OGM reservations do not allow for surface mining. The Department of Environmental Protection's (DEP) Florida Geological Survey provided a written assessment of the mineral resource potential, concluding the potential for discovery of hydrocarbons at the subject parcel was low. The appraisers considered all of these conditions in the valuation of this parcel and concluded the OGM reservations do not decrease the value of this parcel.

On June 22, 1999, the Board of Trustees approved a staff recommendation to delegate to DEP the authority to review and evaluate marketability issues as they arise on all chapter 259, F.S., acquisitions and to resolve them appropriately. Therefore, DEP staff will review, evaluate, and implement an appropriate resolution for any title issues that arise prior to closing.

**Closing Information**

A title insurance policy will be provided by the seller prior to closing. A survey and an environmental site evaluation have been reviewed and approved by DEP.

**Management**

The property will be managed by the Florida Forest Service as part of the Twin Rivers State Forest.

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**Substitute Item 2, cont.**

**Comprehensive Statement**

This acquisition is consistent with section 187.201(9), F.S., the Natural Systems and Recreational Lands' section of the State Comprehensive Plan.

(See Attachment 2, Pages 1-39)

**RECOMMEND APPROVAL**