

AGENDA
BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
DECEMBER 4, 2018

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

<https://floridadep.gov/cab/cab/content/agendas>

Item 1 Minutes

Submittal of the Board of Trustees' Minutes from the August 14, 2018 Cabinet Meeting.

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.

(See Attachment 1 at <https://floridadep.gov/cab/cab/content/agendas>)

RECOMMEND APPROVAL

Item 2 Rocky Bayou Aquatic Preserve Management Plan

REQUEST: Consideration of a request to approve the Rocky Bayou Aquatic Preserve Management Plan.

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.

COUNTY: Okaloosa

APPLICANT: Florida Department of Environmental Protection's Office of Coastal and Aquatic Managed Areas

LOCATION: Rocky Bayou Aquatic Preserve (RBAP) is located in the Florida Panhandle within Choctawhatchee Bay, and east of Niceville.

STAFF REMARKS:

Overview

Under the Aquatic Preserve Resolution of 1969 and then in Chapter 258, Part II, Florida Statutes, aquatic preserves are set aside to be maintained in essentially the natural condition for the benefit of future generations. RBAP was designated as an aquatic preserve in 1970 and covers approximately 366 acres in Okaloosa County.

RBAP is protected by approximately 50 percent adjacent public lands - Fred Gannon Rocky Bayou State Park is to the south and Eglin Air Force Base is to the east. The only developed residential areas are to the north.

RBAP lies in the Choctawhatchee Bay, which is home to the threatened Okaloosa darter and endangered Gulf sturgeon. RBAP contains unconsolidated substrate, seagrass beds, floodplain marsh, salt marsh, and undetermined estuarine natural communities. The adjacent lands contain several steephead streams which flow into the aquatic preserve.

Item 2, cont.

Management Plan Public Involvement

Public and advisory committee meetings were held on February 27 and 28, 2018 in Niceville to obtain public input about the RBAP draft management plan.

Management Plan Overview

The hallmark of Florida's Aquatic Preserve Program is that each site's natural resource management efforts are designed in direct response to unique local and regional issues. In this management plan, RBAP characterizes its issues and delineates the unique goals, objectives, and strategies that will set the framework for meeting the challenges presented by these issues. The goals, objectives, and strategies employed to address issues of RBAP are specific to the ecological and socioeconomic conditions present within and around this site.

The management plan identifies the following issues and goals:

- **Water Quality Goals**
 - Improve the water quality within RBAP.
 - Implement research, restoration, and enhancement projects throughout RBAP that focus on improving water quality and sedimentation.
 - Reduce water quality impacts caused by stormwater and septic system sources.
- **Habitat Loss Reduction Goal**
 - Slow or stop the gradual habitat loss within RBAP.
- **Improving Resource Information Goals**
 - Maintain resource inventories for RBAP.
- **Public Awareness Goals**
 - Increase awareness on how upland management affects submerged resources.
 - Increase public awareness of RBAP and its significance.
 - Inform user groups about coastal resiliency and how to implement coastal resilient features for lands and aquaculture.
 - Inform coastal property owners on proper land use.
 - Inform public concerning marine debris.
 - Inform the public concerning SAV and safe boating to ensure habitat protection.

Acquisition and Restoration Council

The Acquisition and Restoration Council accepted the following management plan at its August 24, 2018 meeting.

The management plan can be accessed at <http://publicfiles.dep.state.fl.us/cama/plans/aquatic/Rocky-Bayou-AP-Management-Plan.pdf>.

(See Attachment 2, Page 1)

RECOMMEND APPROVAL

Item 3 Oklawaha River Aquatic Preserve Management Plan

REQUEST: Consideration of a request to approve the Oklawaha River Aquatic Preserve Management Plan.

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.

COUNTY: Marion

APPLICANT: Florida Department of Environmental Protection’s Office of Coastal and Aquatic Managed Areas

LOCATION: The Oklawaha River Aquatic Preserve (ORAP) is located in Marion County, east of Ocala and encompassing portions of the Silver and Oklawaha rivers.

STAFF REMARKS:

Overview

Under the Aquatic Preserve Resolution of 1969 and then in Chapter 258, Part II, Florida Statutes, aquatic preserves are set aside to be maintained in essentially the natural condition for the benefit of future generations. ORAP was designated by the Florida Legislature in 1989 and covers approximately 408 acres of state-owned sovereign submerged lands.

ORAP is almost completely surrounded by conservation lands including Marjorie Harris Carr Cross Florida Greenway, Ocala National Forest, and Silver Springs State Park.

ORAP is a unique system rich with historic and environmental significance. It is recognized as an Outstanding Florida Water due to its ecological richness and natural attributes. The dark- water Oklawaha River, spring-run Silver River and their floodplain swamp support a diverse set of animal and plant communities.

The Florida Master Site File (FMSF) recognizes numerous archaeological sites in the immediate area of ORAP. These sites and resource areas total more than 2,200 acres, and include prehistoric campsites, middens, mounds, habitation sites, and lithic scatter. These historical sites date back to the Early Archaic period and offer a representation of the various cultures present in the area throughout its history. Many of these sites are multi-component sites that include both prehistoric and historic deposits.

Management Plan Public Involvement

Public and advisory committee meetings were held on May 15 and 16, 2018 in Silver Springs State Park to obtain public input about the ORAP draft management plan.

Management Plan Overview

The hallmark of Florida’s Aquatic Preserve Program is that each site’s natural resource management efforts are designed in direct response to unique local and regional issues. In this management plan ORAP characterizes its issues and delineates the unique goals, objectives, and

Item 3, cont.

strategies that will set the framework for meeting the challenges presented by these issues. The goals, objectives, and strategies employed to address issues of ORAP are specific to the ecological and socioeconomic conditions present within and around this site.

The management plan identifies the following issues and goals:

- **Water Quality Goals:**
 - Further develop and improve the strategic, long-term water quality monitoring program within RSAP that will assist with identifying and addressing issues pertaining to the natural resource.
 - Protect flow regimes of the Oklawaha and Silver river systems.
- **Wildlife Protection and Habitat Restoration Goal:**
 - Improve conditions for native flora and fauna.
- **Sustainable Public Use Goals:**
 - Maintain a safe and natural environment for RSAP wildlife, habitats, and user groups.
 - Promote low-impact, sustainable recreational opportunities.

Acquisition and Restoration Council

The Acquisition and Restoration Council accepted the following management plan at its October 19, 2018 meeting.

The management plan can be accessed at <http://publicfiles.dep.state.fl.us/CAMA/plans/aquatic/Oklawaha-River-AP-Management-Plan.pdf>.

(See Attachment 3, Page 1)

RECOMMEND APPROVAL

Item 4 Rainbow Springs Aquatic Preserve Management Plan

REQUEST: Consideration of a request to approve the Rainbow Springs Aquatic Preserve Management Plan.

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.

COUNTY: Marion

APPLICANT: Florida Department of Environmental Protection's Office of Coastal and Aquatic Managed Areas

Item 4, cont.

LOCATION: The Rainbow Springs Aquatic Preserve (RSAP) is located in southwest Marion County, encompassing a portion of the city of Dunnellon and continuing north to the headsprings of Rainbow River.

STAFF REMARKS:

Overview

Under the Aquatic Preserve Resolution of 1969 and then in Chapter 258, Part II, Florida Statutes, aquatic preserves are set aside to be maintained in essentially the natural condition for the benefit of future generations. RSAP was designated by the Florida Legislature in 1986 and covers approximately 160 acres of state-owned sovereign submerged lands.

RSAP is a unique system rich with historic and environmental significance. It is recognized as a National Natural Landmark as well as an Outstanding Florida Water. This exceptional system has more than 85 identified spring vents and was recently added to the Great Florida Birding and Wildlife Trail. Of the 11.4 miles of shoreline that represents the aquatic preserve boundary line, approximately five miles remain undeveloped and the majority is in public possession.

RSAP is a freshwater source for a wide variety of native Florida flora and fauna, many of which are either state and/or federally listed species of concern.

Management Plan Public Involvement

Public and advisory committee meetings were held on December 8 and 9, 2015 in Dunnellon to obtain public input about the RSAP draft management plan.

Management Plan Overview

The hallmark of Florida's Aquatic Preserve Program is that each site's natural resource management efforts are designed in direct response to unique local and regional issues. In this management plan RSAP characterizes its issues and delineates the unique goals, objectives, and strategies that will set the framework for meeting the challenges presented by these issues. The goals, objectives, and strategies employed to address issues of RSAP are specific to the ecological and socioeconomic conditions present within and around this site.

The management plan identifies the following issues and goals:

- **Water Quality Goals:**
 - Further develop and improve the strategic, long-term water quality monitoring program within RSAP that will assist with identifying and addressing issues pertaining to the natural resource.
 - Protect flow regimes of the Rainbow River system.
- **Wildlife Protection and Habitat Restoration Goal:**
 - Improve conditions for native flora and fauna.
- **Sustainable Public Use Goals:**
 - Maintain a safe and natural environment for RSAP wildlife, habitats, and user groups.
 - Promote low-impact, sustainable recreational opportunities.

Item 4, cont.

Acquisition and Restoration Council

The Acquisition and Restoration Council accepted the following management plan at its June 17, 2016 meeting.

The management plan can be accessed at <http://publicfiles.dep.state.fl.us/cama/plans/aquatic/Rainbow-Springs-AP-Management-Plan.pdf>.

(See Attachment 4, Page 1)

RECOMMEND APPROVAL

Item 5 Loxahatchee River-Lake Worth Creek Aquatic Preserve Management Plan

REQUEST: Consideration of a request to approve the Loxahatchee River-Lake Worth Creek Aquatic Preserve Management Plan.

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.

COUNTIES: Martin and Palm Beach

APPLICANT: Florida Department of Environmental Protection's Office of Coastal and Aquatic Managed Areas

LOCATION: Loxahatchee River-Lake Worth Creek Aquatic Preserve (LRLWCAP) is located in southeast Florida near Jupiter.

STAFF REMARKS:

Overview

Under the Aquatic Preserve Resolution of 1969 and then in Chapter 258, Part II, Florida Statutes, aquatic preserves are set aside to be maintained in essentially the natural condition for the benefit of future generations. LRLWCAP was designated as an aquatic preserve in 1970.

LRLWCAP encompasses approximately 1,739 acres of submerged lands in Martin and Palm Beach counties. The upper portion of the Northwest Fork of the Loxahatchee River, approximately 10.3 miles, is federally designated as Wild and Scenic, and has retained much of its natural state surrounded by Jonathan Dickinson State Park, creating a dichotomy between it and the other portions of the river. With the exception of the Jupiter Ridge Natural Area and the Juno Dunes Natural Area, the rest of LRLWCAP is mostly surrounded by residential development, and the natural shorelines and habitats have been converted to hardened seawalls and bulkheads.

Item 5, cont.

LRLWCAP contains several natural communities, including blackwater stream, mangrove swamp, mollusk reef, seagrass bed, unconsolidated substrate, and undetermined estuarine. LRLWCAP is an important home and nursery for a variety of plants and animals, including a variety of rare and protected species including fish, reptiles, mammals, and birds, such as sea turtles and the Florida manatee. Birds comprise the largest number of protected species with LRLWCAP.

Management Plan Public Involvement

The management plan is the result of several years of work from initial drafting to final approval. The following opportunities for public participation were provided:

- Two advisory committee meetings: November 15, 2017 in Hobe Sound and January 30, 2018 in Jupiter;
- Three public meetings: November 14, 2017 in Hobe Sound, January 29, 2018 in Jupiter, and June 15, 2018 (Acquisition and Restoration Council) to receive public comment on the draft management plan.

Management Plan Overview

The hallmark of Florida's Aquatic Preserve Program is that each site's natural resource management efforts are designed in direct response to unique local and regional issues. In this management plan, LRLWCAP characterizes its issues and delineates the unique goals, objectives, and strategies that will set the framework for meeting the challenges presented by these issues. The goals, objectives, and strategies employed to address issues of LRLWCAP are specific to the ecological and socioeconomic conditions present within and around this site.

The management plan identifies the following issues and goals:

- **Water Quantity and Quality Goals:**
 - Improve the water quality and quantity of freshwater in the Northwest Fork and Loxahatchee River Watershed.
 - Collaborate with entities collecting water quality data to help distribute that information.
 - Reduce water quality impacts caused by stormwater and septic system sources.
- **Invasive Species Goal:**
 - Identify non-native plant and animal species and document their locations to develop strategies to reduce their abundance.
- **Protection of Natural Community Function and Species Diversity Goals**
 - Protect the aquatic preserve from impacts related to land use changes.
 - Implement management practices that maintain or improve habitats and populations within the aquatic preserve.
- **Public Involvement Goals:**
 - Increase public involvement and awareness of the aquatic preserve, its significance, and work conducted within it.
 - Encourage user experiences and public recreation opportunities consistent with natural resource conservation.

Item 5, cont.

Acquisition and Restoration Council

The Acquisition and Restoration Council accepted the following management plan at its June 15, 2018 meeting.

The management plan can be accessed at <http://publicfiles.dep.state.fl.us/cama/plans/aquatic/Loxahatchee-River-Lake-Worth-Creek-AP-Management-Plan.pdf>.

(See Attachment 5, Page 1)

RECOMMEND APPROVAL

Item 6 Point Mezzanine, LLC, Recommended Consolidated Intent/Lease

REQUEST: Consideration of an application for (1) a five-year sovereignty submerged lands lease containing 100,174 square feet, more or less, for a proposed 53-slip private residential multi-slip docking facility (49 over or partially over sovereignty submerged lands); (2) authorization to exceed the preempted area to shoreline ratio; and (3) authorization for the severance of 2,898 cubic yards of sovereignty material.

VOTING REQUIREMENT FOR APPROVAL: Three votes

APPLICANT: Point Mezzanine, LLC
Lease No. 460338621
Application No. 0251677-007-EI/46

LOCATION: 1 Gulf Shore Drive, Destin
Destin Harbor, Okaloosa County

CONSIDERATION: \$78,873.24 representing (1) \$17,706.06 as the initial annual lease fee computed at the base rate of \$0.176753 per square foot, pursuant to rule 18-21.011(1)(b)1., F.A.C.; (2) \$4,426.51 as the one-time 25 percent surcharge payment, pursuant to rule 18-21.011(1)(b)3., F.A.C.; (3) \$53,118.17 as the one-time premium surcharge payment, pursuant to section 18-21.011(1)(c), F.A.C.; and (4) \$3,622.50 for the severance of sovereignty material computed at the rate of \$1.25 per cubic yard pursuant to section 18-21.011(3)(a)3., F.A.C. Sales tax and county discretionary sales surtax will be assessed pursuant to sections 212.031 and 212.054, F.S., if applicable. The lease fee shall be adjusted based on six percent of the annual income if it proves to be greater than the fee computed at the base rate, pursuant to section 18-21.011(1)(a)1., F.A.C.

Item 6, cont.

STAFF REMARKS: In accordance with rules adopted pursuant to sections 373.427(2) and 253.77(2), F.S., this "Recommended Consolidated Notice" contains a recommendation for issuance of both the permit required under part IV of chapter 373, F.S., and the authorization to use sovereignty submerged lands under chapter 253, F.S. The Board of Trustees is requested to act on those aspects of the activity which require authorization to use sovereignty submerged lands.

The project is required to demonstrate that it is “not contrary to the public interest,” pursuant to Article X, Section 11 of the Florida Constitution, chapter 253, F.S., and rule 18-21.004(1)(a), F.A.C. The applicant has provided reasonable assurance that the proposal will maintain essentially natural conditions; will not significantly impact fish and wildlife and other natural resources, including public recreation and navigation; is consistent with the local government’s comprehensive plan; and will not interfere with the riparian rights of adjacent property owners. Therefore, the Department of Environmental Protection (DEP) is of the opinion that the proposal is “not contrary to the public interest” and otherwise meets all applicable requirements for a proprietary authorization to use sovereignty submerged lands.

Project Detail

The applicant is proposing to construct a 53-slip private residential multi-family docking facility to be used in conjunction with a proposed 79-unit upland condominium. The docking facility will consist of 50 permanent slips and 3 flexible mooring slips for a total of 53 slips. Of the 53 slips, 47 slips will be located over sovereignty submerged lands, 2 slips will be located partially over sovereignty submerged lands and privately-owned submerged lands, and 4 slips will be located over privately-owned submerged lands. The docking facility will accommodate vessels ranging from 30 to 66 feet in length with drafts up to 6 feet.

Net Positive Public Benefit

The applicant’s riparian shoreline is approximately 631 linear feet and is used in the 40 square foot to 1 linear foot, or 40:1, ratio calculation, pursuant to rule 18- 21.004(4)(b)2., F.A.C., which allows the applicant to preempt up to 25,240 square feet without requiring net positive public benefit (NPPB). The proposed 100,174-square-foot lease area exceeds the 40 to 1 ratio by approximately 74,934 square feet and is required to provide NPPB, pursuant to rule 18-21.004(4)(b)2.e., F.A.C.

As NPPB, the applicant has proposed to contribute \$500,000 to the Trust for Public Land for the Leonard Destin Park. The funds will be used specifically for the following public access components at the park: dock/fishing pier; kayak launch; boardwalks; upland restroom facilities; and parking. The entire Leonard Destin Park improvements project has received DEP regulatory authorization and is currently in the construction phase.

Item 6, cont.

Conservation Easement

Pursuant to rule 18-21.004(4)(g), F.A.C., the applicant is required to record a conservation easement in favor of the Board of Trustees along 631 linear feet of its riparian shoreline to prohibit future construction or expansion of the docking facility. This has been included as a special approval condition.

Dredging/Riprap

The applicant is proposing to dredge approximately 8,855 cubic yards of material to approximately -8 feet mean low water (MLW) for the purpose of obtaining usable depths in nearshore waters to accommodate the mooring of recreational vessels associated with the proposed docking facility. The proposed dredging will consist of 2,898 cubic yards of sovereignty material and 5,957 cubic yards of privately-owned uplands. Surrounding water depths adjacent to the dredge area range from -8 to -12 feet MLW. The spoil material will be disposed of at an appropriate self-contained upland site.

In addition, the applicant is proposing to place 9,000 cubic feet of riprap along approximately 600 linear feet of its existing upland bulkhead, which is the boundary between the uplands and the dredge limits.

Net Positive Environmental Benefit

The proposed project is located in Destin Harbor (a/k/a Old Pass Lagoon). Old Pass Lagoon has experienced a decline in water quality dating back to the early 1980's. As a result of these concerns, on March 6, 1984, the Board of Trustees imposed a condition that future developments on sovereignty submerged lands in Old Pass Lagoon must not only meet water quality standards, but must also have a net positive environmental benefit (NPEB) to the water quality in the lagoon. Because of these concerns, the Northwest Florida Water Management District installed a pumping mechanism in the lagoon in 1995, turning the operation and maintenance over to the City of Destin. This mechanism pumps water from the Gulf of Mexico into the lagoon during an outgoing tide forcing the water in the lagoon out into the Gulf. The pump provides flow through circulation in the lagoon, as the lagoon only has one opening. Quarterly water quality monitoring is conducted by the City of Destin, and, according to the City Engineer, improved water quality has been demonstrated with the operation of the harbor pump.

In order to satisfy the NPEB, the applicant is required to pay \$22,260 to the City of Destin Stormwater Management Fund, which the applicant paid on February 21, 2018. This amount is based on a contribution of \$420 per slip and is consistent with previous Board of Trustees' actions.

Noticing/Interested Parties

The proposed lease request was noticed to three property owners within a 500-foot radius of the project, pursuant to rule 18-21.005(3), F.A.C., and seven objections were received. The objectors raised the following concerns:

- (1) noncompliance with the upland development order;
- (2) potential negative impacts to public safety/navigation;
- (3) riparian setbacks;
- (4) water quality; and
- (5) upland parking.

Item 6, cont.

DEP is of the opinion that the objectors' concerns have been addressed as follows:

- (1) the applicant's agent provided responses to the objectors concerns about the Development Order. The agent's response states, "The docking facility is not in the DO because there is a separate and distinct permitting process for docking facilities...";
- (2) the applicant's agent provided responses to the objectors concerns about public safety and potential navigation issues. The docking facility is located an adequate distance from the nearby Federal Navigation Channel. In addition, the facility will be required to install and maintain reflective aids to navigation at all corners of the facility to assist with safe navigation during times of reduced visibility;
- (3) the project was redesigned to be in compliance with the 25-foot riparian rights line setback requirements;
- (4) the application included a Water Quality Analysis which was recently conducted within the project area. The report confirmed that the project will not cause or contribute to an existing water quality violation; and
- (5) the applicant's agent provided responses to the objectors concerns about inadequate upland parking. The agent's response states, "Vessel owners will park in the upland (Pointe Resort LLC) parcel. As the docking facility is a private, multi-family facility, only upland property owners will be authorized to utilize the facility."

(See Attachment 6, Pages 1-31)

**RECOMMEND APPROVAL SUBJECT TO THE SPECIAL APPROVAL CONDITIONS,
THE SPECIAL LEASE CONDITIONS, AND PAYMENT OF \$ 78,873.24**

Item 7 Dag Brothers, Inc./Nonwater Dependent Activities/Determinations

REQUEST: Consideration of a request (1) for a determination, pursuant to rule 18-21.004(1)(g), F.A.C., that it is in the public interest to allow nonwater dependent activities to occur on sovereignty submerged lands leased by the Applicant; (2) to allow nonwater dependent, open air, over-the-water-dining activities to be conducted on a total of 1,300 square feet, more or less, of the Applicant's existing structure; and (3) for a determination, pursuant to rule 18-20.004(1)(a), F.A.C., to approve the request.

VOTING REQUIREMENT FOR APPROVAL: Three votes

APPLICANT: Dag Brothers, Inc.
Lease No: 520005643

LOCATION: 196 Boardwalk Place East, Madeira Beach
John's Pass, Pinellas County
Pinellas County Aquatic Preserve

Item 7, cont.

CONSIDERATION: \$6.47 per square foot, based on the appraised upland market rental value, will be applied annually to the proposed 1,300 square feet, more or less, associated with the nonwater dependent activity, pursuant to rule 18-21.011(1)(b)6., F.A.C.

STAFF REMARKS: Rule 18-20.004(1)(a), F.A.C., states that in determining whether to approve or deny any request the Board of Trustees will evaluate each on a case-by-case basis and weigh any factors relevant under Chapter 253 and/or 258, F.S. The Board of Trustees, acting as Trustees for all state-owned lands, reserves the right to approve, modify or reject any proposal.

Effective July 1, 2016, section 253.03(15), F.S., which encourages the use of sovereignty submerged land for public access and water dependent uses, was amended to include related minimal secondary nonwater dependent uses. The over-the-water dining activities involve a nonclimatized area with minimal secondary nonwater dependent use of placing tables, chairs, and shading structures on an existing structure over sovereignty submerged land for dining activities.

Rule 18-20.001(2), F.A.C., states that aquatic preserves which are described in Part II of Chapter 258, F.S., were established for the purpose of being preserved in an essentially natural or existing condition so that their aesthetic, biological and scientific values may endure for the enjoyment of future generations. The over-the-water dining activities as stated above are located on an existing structure, including a portion that was an existing condition prior to the establishment of the Pinellas County Aquatic Preserve (Preserve) in 1972. The over-the-water dining area allows for public access and enjoyment of John's Pass and the surrounding areas.

Background

The Applicant acquired the property in 2011 and obtained a five-year sovereignty submerged lands lease for the structure that has been in place since 1971. The structure initially came under lease in 1991 for a total area of 7,713 square feet for a temporary docking facility in conjunction with an upland boat rental and restaurant. In 1995, Paradise Pier, Inc. (predecessor in title) was granted authorization to operate the docking facility with a nonwater dependent boat rental office in conjunction with the boat and jet ski rental and an upland commercial restaurant. The nonwater dependent activity was later expanded, and the Applicant was advised that this would need Board of Trustees' approval.

Project Detail

The over-the-water dining structure is nonclimatized, with tables, chairs, and shading structures, and is open to the public. Although the nonwater dependent activities will be conducted within the Preserve boundary, the dining structure is adjacent to a developed area near a major thoroughfare. If approved, the lease for the Applicant will define the nonwater dependent structure in a survey so that it cannot be improved or expanded without Board of Trustees' approval.

Item 7, cont.

Lease Fees

Rule 18-21.011(1)(b)6., F.A.C., currently provides that the annual lease fees for nonwater dependent uses shall be negotiated considering the appraised market rental value of the riparian uplands. A market rental value appraisal was completed in order to obtain a basis for negotiating annual lease fees. The Department of Environmental Protection (DEP) recommends that the nonwater dependent structure should be assessed at a negotiated nonwater dependent rate of \$6.47 per square foot annually or at the rate in effect in rule 18-21,011(1)(b)6., F.A.C., on the anniversary date of the lease. The remaining lease area will be assessed the standard water dependent rate. Approval of this item does not supersede or eliminate any local, state, or federal permitting requirements.

Public Interest and Compatibility

Rule 18-21.004(1)(g), F.A.C., requires the Board of Trustees to determine that it is in public interest to authorize the requested activity. In respect to the location of the proposed activity at John's Pass, the facility is not located in a pristine area of the Preserve but in what is described as the "tourist commercial epicenter for the middle and south Pinellas Beaches" per the appraisal. The facility sits along a highly developed commercial waterfront with adjacent properties providing wave runner rentals, parasailing, dolphin cruises, and fishing charters. DEP is recommending the Board of Trustees find the project meets the public interest requirement and is compatible because:

- the nonwater dependent, open-air, over-the-water dining activities will continue to provide public access and enhance public enjoyment of sovereignty submerged lands without impairing traditional access;
- structure existing prior to the establishment of the Preserve will be used;
- the facility has had authorized nonwater dependent uses since 1995;
- the over-the-water dining activities do not entail a significant adverse impact to sovereignty submerged lands and resources under the existing structure; and
- it will continue to provide an economic benefit to the Applicant and potential secondary economic benefits to nearby businesses.

Noticing

This request is not subject to noticing, pursuant to section 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 the proposed action is not subject to the local government planning process.

(See Attachment 7, Pages 1-6)

RECOMMEND APPROVAL

Item 8 White Elephant Pub, Inc./Nonwater Dependent Activities/Determinations

REQUEST: Consideration of a request (1) for a determination, pursuant to rule 18-21.004(1)(g), F.A.C., that it is in the public interest to allow nonwater dependent activities to occur on sovereignty submerged lands leased by the Applicant; (2) to allow nonwater dependent, open air, over-the-water dining activities to be conducted on a total of 850 square feet, more or less, of the Applicant's existing structure; and (3) for a determination, pursuant to rule 18-20.004(1)(a), F.A.C., to approve the request.

VOTING REQUIREMENT FOR APPROVAL: Three votes

APPLICANT: White Elephant Pub, Inc.

LOCATION: 1855 Gulf Boulevard, Englewood
Lemon Bay, Charlotte County
Lemon Bay Aquatic Preserve

CONSIDERATION: \$2.75 per square foot, based on the appraised upland market rental value, will be applied annually to the proposed 850 square feet, more or less, associated with the nonwater dependent activity, pursuant to rule 18-21.011(1)(b)6., F.A.C.

STAFF REMARKS: Rule 18-20.004(1)(a), F.A.C., states that in determining whether to approve or deny any request the Board of Trustees will evaluate each on a case-by-case basis and weigh any factors relevant under Chapter 253 and/or 258, F.S. The Board of Trustees, acting as Trustees for all state-owned lands, reserves the right to approve, modify or reject any proposal.

Effective July 1, 2016, section 253.03(15), F.S., which encourages the use of sovereignty submerged land for public access and water dependent uses, was amended to include related minimal secondary nonwater dependent uses. The over-the-water dining activities involve a nonclimatized area with minimal secondary nonwater dependent use of placing tables, chairs, and shading structures on an existing structure over sovereignty submerged land for dining activities.

Rule 18-20.001(2), F.A.C., states that aquatic preserves which are described in Part II of Chapter 258, F.S., were established for the purpose of being preserved in an essentially natural or existing condition so that their aesthetic, biological and scientific values may endure for the enjoyment of future generations. The over-the-water dining activities as stated above are located on an existing structure, including a portion that was an existing condition prior to the establishment of the Lemon Bay Aquatic Preserve (Preserve) in 1986. The over-the-water dining area allows for public access and enjoyment of the Lemon Bay and the surrounding areas.

Background

The original structure was constructed prior to 1952 and was registered as a grandfathered structure with the former Department of Natural Resources. The Applicant acquired the upland property in 2002 and expanded the structure to include the dining deck. The facility is situated between a developed area of the Preserve, with existing docks and homes on uplands along Gulf Boulevard,

Item 8, cont.

and a county waterfront park, with a fishing pier. The Applicant is currently operating under a temporary use agreement, is current on fees, and the facility is open to the public.

Project Detail

The over-the-water dining structure is nonclimatized with tables, chairs, and shading structures, and is open to the public. The Applicant is utilizing its existing structure, and, if approved, the lease for the Applicant will define the nonwater dependent structure in a survey so that it cannot be improved or expanded without Board of Trustees' approval.

Lease Fees

Rule 18-21.011(1)(b)6., F.A.C., currently provides that the annual lease fees for nonwater dependent uses shall be negotiated considering the appraised market rental value of the riparian uplands. A market rental value appraisal was completed in order to obtain a basis for negotiating annual lease fees. The Department of Environmental Protection (DEP) recommends that the nonwater dependent structure should be assessed at a negotiated nonwater dependent rate of \$2.75 per square foot annually or at the rate in effect in rule 18-21.011(1)(b)6., F.A.C., on the anniversary date of the lease. The remaining lease area will be assessed the standard water dependent rate. Approval of this item does not supersede or eliminate any local, state or federal permitting requirements.

Public Interest and Compatibility

Rule 18-21.004(1)(g), F.A.C., requires the Board of Trustees to determine that it is in public interest to authorize the requested activity. Although the nonwater dependent activities will be conducted within the Preserve boundary, the dining structure is part of an existing facility within a developed area along the major thoroughfare on the barrier island. DEP is recommending the Board of Trustees find the project meets the public interest requirement and is compatible because:

- the nonwater dependent, open-air, over-the-water dining activities will continue to provide public access and enhance public enjoyment of sovereignty submerged lands without impairing traditional access;
- the over-the-water dining activities do not entail a significant adverse impact to sovereignty submerged lands and resources under the existing structure; and
- it will also continue to provide an economic benefit to the Applicant and potential secondary economic benefits to nearby businesses.

Noticing

This request is not subject to noticing, pursuant to section 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 the proposed action is not subject to the local government planning process.

(See Attachment 8, Pages 1-5)

RECOMMEND APPROVAL

Item 9 City of Daytona Beach Release of Restriction and Right of Revocation/Release of Mineral Rights

REQUEST: Consideration of a (1) Release of Restriction and Right of Revocation from Board of Trustees' Deed No. 17190, 17191, 19622-A, 23287, 20798-B and 40152 for approximately 75.52-acres; and (2) consideration of a Release of Mineral Rights held by the Board of Trustees to approximately 97.22-acres of filled submerged lands deeded to the City of Daytona Beach.

VOTING REQUIREMENT FOR APPROVAL: Three votes

COUNTY: Volusia

APPLICANT: City of Daytona Beach (City)

LOCATION: Section 8, 38 and 39, Township 15 South, Range 33 East

CONSIDERATION: \$8,770,300 based on an appraisal, to be deposited into the Internal Improvement Trust Fund.

<u>PARCEL</u>	<u>ACRES</u>	APPRAISED BY
BOT	75.52	Hamilton (07/09/2018)
BOT	97.22	\$8,760,000 (Deed Restriction and Reversion Rights) \$10,300 (Oil, Gas and Mineral Rights)

STAFF REMARKS:

Background

The Board of Trustees deeded approximately 97.22-acres to the City of Daytona Beach through multiple deeds. The deeds all contain deed restrictions that, if violated, cause reversion of the property should the City lease the land for any private use.

Deed No. 17190 January 29, 1925: *"TO HAVE AND TO HOLD... for public purposes forever."*

Deed No.17191 January 29, 1925: *"TO HAVE AND TO HOLD ...for public purposes forever"*

Deed No. 19622-A April 14, 1953: *"shall never sell or convey or lease the above described land or any part thereof to any private person, firm or corporation for any private use or purpose, it being the intention of this restriction that the said lands shall be used solely for public purposes."*

Deed No. 23287 March 6, 1963: *"shall never sell, convey or lease any part of said land to any private person, firm or corporation, it being the intention hereof that said land shall be used for public purpose only."*

Deed No. 20798-B April 12, 1963: added lands to 20798; did not include public purpose language.

Item 9, cont.

Deed No. 40152 October 17, 2002 (Corrective Deed to 20798): *“shall never sell or convey or lease the above described land or any part thereof to any private person, firm or corporation, for any private use of purpose, it being the intention of this restriction that the said land shall be used solely for public purposes.”*

In 1954, the Board of Trustees conveyed a parcel of sovereignty submerged lands to the City of Daytona Beach by Deed No. 20798. This deed contained deed restrictions that, if violated, cause reversion of the property should the City lease the land or any part thereof to a private person, firm or corporation for any private use. On September 13, 1988, the Board of Trustees approved the Release of the Deed Restrictions on 21.70-acres contained in Deed No. 20798. The current request includes a release the oil, gas and mineral rights held by the Board of Trustees formerly under Board of Trustees Deed No. 20798, and those mineral rights held under Deed No. 19622-A, 40152, 17190, 17191, 23287, and 20798-B which are being presented for the Release of Deed Restriction. The total area considered for oil, gas and mineral reservation release is approximately 97.22-acres of filled submerged lands. The Board of Trustees holds three-fourths undivided interest in phosphate, minerals and metals, together with one-half undivided interest in petroleum with mining rights.

Current Request

The City has requested the release of the restriction and reverter and release of oil, gas and mineral rights to increase the opportunities of redevelopment on the subject parcels. The City adopted a Downtown Redevelopment Riverfront Master Plan on August 4, 2010 to attract redevelopment and investment potential in the City’s downtown riverfront area. The City’s plan is to expand its efforts to attract new businesses and residents to the area for the benefit of the local economy. The restrictions, reverter and mineral reservation clause limits the opportunities that can be considered in the redevelopment of this area of the city.

The Department of Environment Protection (DEP) is recommending the Board of Trustees approve the City’s request for the release of the restriction and reverter because it will enable the City to expand its efforts to attract residents and businesses to the area for the benefit of the local economy.

DEP, Florida Geological Survey provided a generalized review summary of the potential mineral resources within the subject property on October 23, 2017. The review indicated a low potential of economic viable quantities of oil, gas and minerals.

This release of restriction in no way waives any regulatory requirements including but not limited to those of DEP, Army Corps of Engineers, Water Management District, and local government.

Comprehensive Plan

A local government comprehensive plan has been adopted for this area pursuant to section 163.3167, F.S. The proposed action is consistent with the adopted plan.

(See Attachment 9, Pages 1-13)

RECOMMEND APPROVAL

Item 10 City of West Palm Beach Release of Restriction and Reverter

REQUEST: Consideration of a Release of Restriction and Reverter from Board of Trustees' Dedication No. 23136 to an approximate 5.9-acre parcel (3.2-acres upland and 2.7 acres filled submerged lands) dedicated to the City of West Palm Beach.

VOTING REQUIREMENT FOR APPROVAL: Three votes

COUNTY: Palm Beach
Dedication No. 23136

APPLICANT: City of West Palm Beach

LOCATION: Section 10 and 15, Township 43 South, Range 43 East

CONSIDERATION: \$2,200,000, based on an appraisal, to be deposited into the Internal Improvement Trust Fund.

STAFF REMARKS:

Background

On June 27, 1962, the Board of Trustees dedicated an approximate 5.9-acres (3.2-acres upland and 2.7 acres filled submerged lands), located in Intracoastal Waterway, to the City of West Palm Beach (City) under the Board of Trustees' Dedication No. 23136 for public park purposes. The dedication provides for reversion, at the option of the Trustees, in the event the City uses the property for other than municipal park purposes or fails to maintain and use the property for park purposes for a period of three consecutive years.

Dedication No. 23136: *"The above described lands shall be used for public municipal park purpose only, under the supervision and management of the City of West Palm Beach, subject to the following provision, to-wit:*

In the event the said CITY OF WEST PALM BEACH (1) use said land for other than public municipal park purposes or (2) for a period three consecutive years shall fail and neglect to maintain and use the same for said public municipal park purposes, the dedication hereby made shall, at the option of said Trustees, be subject to termination upon sixty days notice in writing by the Trustees to said CITY."

Subsequently on June 8, 1993, the Board of Trustees approved a modification of restrictions on the 5.9-acres (subject parcel) to allow the establishment of the Palm Beach Maritime Museum on the waterfront of Currie Park. The City entered into a long-term agreement with a non-profit corporation, for the operation of the facility. The museum showcases exhibits, artifacts, interactive displays on the environment and maritime history.

Current Request

The City has requested the release of the restriction and reverter on the subject parcel to develop a recreational complex within the park. The City of West Palm Beach Community Redevelopment Agency (CRA) has developed a proposed master plan to attract redevelopment and investment to revitalize the "Currie Corridor" within the city. Rezoning of all the land in the "Currie Corridor"

Item 10, cont.

has been aggregated into large parcels, capable of supporting significant mixed-use development. Preliminary discussions with developers has not been favorable due to the current restriction and reverter clause limiting the opportunities that can be considered by the local government for development of the “Currie Corridor” park area. The asset of the park would provide for attracting new residents and businesses to the “Currie Corridor” if the park were improved.

The City has submitted Resolution No. 204-18, approved July 16, 2018, authorizing the request for a release of the restriction and reverter in Board of Trustees’ Dedication No. 23136. If the request for the release is approved by the Board of Trustees, the City will move forward with completing design plans to revitalize the park with the potential of a 100-slip public marina facility, food and beverage opportunities, rejuvenate public sports courts, redesign the seawall to support a canoe and kayak launch and add a public pool. The City insists these facilities will provide the positive traffic to reinvigorate the park to bring potential residents and businesses to the area.

The Department of Environment Protection (DEP) is recommending the Board of Trustees approve the City’s request for the release of the restriction and reverter because it will enable the City to expand its efforts to attract residents and businesses to the area for the benefit of the local economy that will also provide recreational opportunities.

This release of restriction in no way waives any regulatory requirements including but not limited to those of DEP, Army Corps of Engineers, Water Management District, and local government.

Comprehensive Plan

A local government comprehensive plan has been adopted for this area pursuant to section 163.3167, F.S. The proposed action is consistent with the adopted plan.

(See Attachment 10, Pages 1-4)

RECOMMEND APPROVAL

Item 11 Adventist Health System/Sunbelt, Inc. (Florida Hospital) Partial Release of Deed Restriction and Reverter

REQUEST: Consideration of a request from Adventist Health System/Sunbelt, Inc., a Florida not-for-profit corporation, d/b/a Florida Hospital for a Partial Release of Deed Restriction and Reverter from an approximately 6.42-acre parcel conveyed in Board of Trustees’ Deed No. 31887, now owned by Adventist Health System/Sunbelt, Inc.

VOTING REQUIREMENT FOR APPROVAL: Three votes

COUNTY: Orange
Deed No. 31887

Item 11, cont.

APPLICANT: Adventist Health System/Sunbelt, Inc. (Adventist), a Florida not-for-profit corporation, d/b/a Florida Hospital

LOCATION: Section 20, Township 21 South, Range 28 East

CONSIDERATION: \$943,500.00 based on an appraisal to be deposited into the University of Florida Institute of Food and Agricultural Science Relocation and Construction Trust Fund.

STAFF REMARKS:

Background

In 1987, the Florida Board of Regents (BOR), predecessor to the Florida Board of Governors, was charged by the Florida Legislature with analyzing the effectiveness of transmitting the UF/IFAS programs/research to industries in the state through extension services. The study was completed and approved by the BOR in January 1988 with the recommendation to locate and develop comprehensive centers throughout the state to enhance the delivery of UF/IFAS food, agriculture and natural resource programs. In 1990, the Legislature passed chapter 90-148, Laws of Florida, authorizing the BOR, with the approval of the Board of Trustees, to sell, trade or exchange state agricultural research and education property and apply the funds to the relocation and construction of new agricultural facilities.

On October 28, 2008, the Board of Trustees approved the sale of 17.82 acres of UF/IFAS property to the Orlando-Orange County Expressway Authority (“Authority”). The property, which was part of a larger tract leased to UF/IFAS, was conveyed under Board of Trustees’ Deed No. 31887 (“Deed”). The Deed contained a restriction and reverter clause restricting the use of the parcel to public road purposes and public utilities. The western portion of the 17.82-acre parcel was used in the construction of the limited access right-of-way for the Daniel Webster Western Beltway extension of Maitland Boulevard severing the subject 6.42-acre parcel (“Property”) from the original parent tract. Following the completion of the road extension in January of 2014, the Authority conveyed the Property to Adventist, the adjoining landowner, as it was no longer needed for road purposes.

Current Request

Adventist has developed its adjoining acreage into a new hospital known as Florida Hospital - Apopka and is planning an expanded campus with greater capacity and enhanced services. In order to continue the development, Adventist has requested the deed restriction and reverter in the Deed be released from the Property to allow the health care facility expansion. Adventist will pay the current appraised value of the partial release of the restriction and reverter with the proceeds being deposited into the University of Florida Institute of Food and Agricultural Science Relocation and Construction Trust Fund.

Department of Environmental Protection (DEP) is recommending the Board of Trustees approve the request for the partial release of deed restrictions and reverter language from the Property because the road right-of-way contemplated in the original conveyance has been completed and the severed Property is no longer needed for public road purposes.

Item 11, cont.

This partial release of deed restrictions and reverter in no way waives any regulatory requirements including but not limited to those of DEP and local government.

Comprehensive Plan

A local government comprehensive plan has been adopted for this area pursuant to section 163.3167, F.S. The proposed action is consistent with the adopted plan.

(See Attachment 11, Pages 1-6)

RECOMMEND APPROVAL

Item 12 BOT/South Florida PBS, Inc., Exchange Agreement/Determination

REQUEST: Consideration of (1) a determination, pursuant to section 18-2.018(3)(b)1.c., F.A.C., that an exchange of an approximately 0.71-acre parcel of state-owned, non-conservation land in Miami-Dade County provides a greater benefit to the public than its retention in Board of Trustees' ownership; and (2) approval of an exchange agreement to convey the approximately 0.71-acre parcel of state-owned, non-conservation land in Miami-Dade County in exchange for approximately 6.2 acres owned by South Florida PBS, Inc., in Palm Beach County.

VOTING REQUIREMENT FOR APPROVAL: Three votes

COUNTIES: Miami-Dade and Palm Beach

APPLICANT: Florida Department of Education (DOE)

LOCATION: 14901 NE 20th Avenue, North Miami

CONSIDERATION: Parcel-for-parcel with no cash boot to be paid by the Board of Trustees

<u>PARCEL</u>	<u>ACRES</u>	<u>APPRAISED BY</u>		<u>EXCHANGE VALUE</u>	<u>CLOSING DATE</u>
		<u>Newstreet (06/27/18)</u>	<u>Hatzell (06/22/18)</u>		
South Florida PBS	6.2	\$8,090,000*	\$7,400,000*	\$7,745,000**	120 days after BOT Approval
		\$8,430,000	\$8,400,000		
BOT	0.71	\$2,410,000	\$2,020,000	\$2,215,000	

*With deed restriction in place

** Average of two appraisals

Item 12, cont.

STAFF REMARKS: The Department of Environmental Protection’s (DEP) Division of State lands (DSL) received a request from DOE proposing to exchange the 0.71-acre parcel of improved land in Miami-Dade County owned by the Board of Trustees, for a 6.2-acre parcel of improved land in Boynton Beach, Palm Beach County, owned by South Florida PBS, Inc. (SFPBS). DOE has oversight and authority for public broadcasting in the State of Florida and SFPBS operates two public broadcast stations in Miami and Boynton Beach.

Background

The 0.71-acre state-owned parcel was acquired through multiple transactions and is improved with a 19,250-square-foot building sharing a common wall with the building on the adjacent parcel owned by SFPBS. The state-owned building and the adjacent SFPBS building are being used jointly as a television broadcast facility with access between buildings available on the second-floor hallway. The property is under Board of Trustees’ Lease No. 3119 to DOE with a sublease agreement between DOE and SFPBS.

The 6.2-acre parcel owned by SFPBS in Boynton Beach contains a 33,704-square-foot office/studio building being utilized as a television broadcast facility. The property was conveyed to SFPBS by the City of Boynton Beach for \$100 in 1986 and had a value of \$1,136,000. The deed covenants limit the use of the property to “...a non-profit, educational and/or public broadcasting or communications system or systems or facility.” In 1989, the Board of Education of the State of Florida and SFPBS entered into an agreement for up to a 40-year lease term and a state grant totaling \$5,000,000 to construct a building on the site and purchase the necessary broadcasting equipment.

Project Details

The proposed land exchange was contemplated due to the unusual configuration/connection of the adjacent ownerships at the existing Miami station and SFPBS’s desire to relocate the PBS station. The North Miami neighborhood has developed into a highly populated and primarily industrial area with no educational facilities. Most of the local television stations in Miami have relocated during the last decade or more to areas that have less traffic and easier access. If SFPBS can consolidate ownership of the two properties housing the station, SFPBS can more easily market and sell the single ownership in order to relocate the television station to a more appropriate site within Miami-Dade County. In return, the Board of Trustees will receive title to a larger and more valuable piece of property. Also, DOE will lease the building from the Board of Trustees and sublease to SFPBS to continue its use for a public television station. On September 14, 2018, Florida Board of Education authorized the Commissioner of Education to take measures to effect the proposed land exchange.

Item 12, cont.

The 6.2-acre parcel had a petroleum discharge from an emergency generator day tank assessed between March and July of 2012. The assessments indicated the site qualified for natural attenuation monitoring under a Natural Attenuation Monitoring Plan approved by the Palm Beach County Emergency Resources Management on behalf of DEP. Because this is a low scored site (meaning the discharge has a relatively low threat to potential receptors), it is possible that the site could be closed under the Low Scored Site Initiative (LSSI) as long as it meets the criteria. Another groundwater sampling event will be conducted to: (1) verify that the contamination is indeed confined to the property boundary; and (2) determine if the contamination is stable enough to meet the LSSI closure criteria. SFPBS will be contractually obligated to continue to be responsible for all actions related to the site contamination until the site is issued a No Further Action.

Rule Requirements

Pursuant to rule 18-2.018(3)(b)1.c., F.A.C., the surplus lands must provide a greater benefit to the public than its retention in Board of Trustees' ownership. DEP offers the following to assist the Board of Trustees in making this determination:

- the Board of Trustees will receive nearly 5.5 more acres in the exchange;
- the Board of Trustees will receive an asset valued at \$5.5 million more than the current ownership;
- the operation of the Boynton Beach public television station will continue to operate under a lease to DOE, and
- the continued operation of the Boynton Beach public television station will support DOE's ongoing efforts to increase the academic proficiency of Florida's students.

Noticing

Noticing, pursuant to section 253.115, F.S., is not required for conveyances that are less than five acres in size.

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 12, Pages 1-22)

RECOMMEND APPROVAL

Item 13 BOT/Floridian Holdings, LLC, Exchange Agreement/Determinations

REQUEST: Consideration of (1) a determination that approximately 1.16 acres of land owned by the Board of Trustees is (a) no longer needed for conservation purposes, pursuant to Article X, section 18 of the Florida Constitution and section 253.0341(1), F.S.; and (b) surplus; (2) a determination that the exchange will (a) result in a net positive conservation benefit to the state, pursuant to section 253.0341(1), F.S.; and (b) provide a greater benefit to the public than its retention in Board of Trustees’ ownership, pursuant to rule 18-2.018(3)(b)1.c., F.A.C.; and (3) approval of an exchange agreement in which the Board of Trustees will convey approximately 1.16 acres of state-owned conservation land in exchange for two parcels, totaling approximately 8.72 acres, from Floridian Holdings, LLC.

VOTING REQUIREMENT FOR APPROVAL: Three votes

COUNTY: Monroe

APPLICANT: Floridian Holdings, LLC (Floridian)

LOCATION: Section 01, Township 61 South, Range 39 East; Section 07, Township 63 South, Range 38 East; Section 05, Township 64 South, Range 37 East

CONSIDERATION: Parcel for parcels, with \$173,500 in cash boot to be deposited into the Internal Improvement Trust Fund.

<u>PARCEL</u>	<u>ACRES</u>	APPRAISED BY	APPROVED	EXCHANGE	CLOSING
		Marr (10/08/18)	VALUE	VALUE	DATE
FLORIDIAN					
Parcel 1	8.31	\$16,500	\$16,500	\$16,500	180 days after BOT Approval
Parcel 2	<u>0.41</u>	<u>\$100,000</u>	<u>\$100,000</u>	<u>\$100,000</u>	
	8.72	\$116,500	\$116,500	\$116,500	
BOT					
Parcel 3	1.16	\$290,000	\$290,000	\$290,000	

STAFF REMARKS: The Department of Environmental Protection’s (DEP) Division of State Lands (DSL) received an application from Floridian proposing to exchange two parcels (an 8.31-acre parcel and a second parcel containing 3 contiguous lots which total 0.41 acre) of privately-owned lands which total approximately 8.72 acres, for a 1.16-acre parcel of conservation land owned by the Board of Trustees. Floridian currently has two option agreements with the current owners for purchase of the privately-owned lands it is offering for exchange.

Background

The Board of Trustees acquired the 1.16-acre parcel as part of a donation (approximately 6 acres of uplands and 2.5 acres of submerged lands) from Whitney Bourne Atwood in 1972. DEP’s Division of Recreation and Parks (DRP) manages the land as part of Indian Key Historic State Park under Lease No. 2536. Floridian (previously Gulf Stream LP) purchased its property in 1994. The Floridian parcel contains a residence and is adjacent to the east of the state-owned parcel.

Item 13, cont.

Project Detail

Floridian requested the exchange in order to resolve a driveway encroachment on the state-owned land which appeared to be in existence prior to its purchase of the property. The exchange will provide the Board of Trustees with a net gain of 7.56 acres of conservation lands. The acquisition of the 3 contiguous lots with development rights, will protect these lots from future development.

Acquisition and Restoration Council

The proposed exchange request was recommended for approval by the Acquisition and Restoration Council on October 19, 2018.

Constitutional, Statutory, and Rule 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 253.0341(1), F.S., in order to surplus conservation lands, the Board of Trustees, by a vote of at least three members, must make a determination that the lands are no longer needed for conservation purposes and that the exchange will result in a net positive conservation benefit to the state. Pursuant to rule 18-2.018(3)(b)1.c., F.A.C., the surplus lands must provide a greater benefit to the public than its retention in Board of Trustees' ownership. DEP offers the following to assist the Board of Trustees in determining that the 1.16-acre parcel is no longer needed for conservation purposes:

- the parcel is disturbed with a driveway encroachment and due to its proximity to privately-owned lands makes management difficult; and
- the parcel currently has no recreational trails or access areas and there are no plans to provide recreational opportunities on this parcel. There is no public use of the parcel.

DEP also offers the following to assist the Board of Trustees in determining that the exchange will provide a net positive conservation benefit to the state and the 1.16-acre parcel will provide a greater benefit to the public than its retention in Board of Trustees' ownership:

- it will provide a net gain of 7.56 acres of conservation lands within the current Florida Keys Ecosystem Florida Forever Project boundary;
- Floridian will install a metal fence for the new property boundary which will exceed the manager's requirements; and
- acquisition of the three contiguous lots, will prevent future development of these parcels.

Management Review

DRP, as manager of Indian Key Historic State Park, supports the proposed exchange and approved the private parcels for this exchange.

Item 13, cont.

Comprehensive Plan

DEP has determined that surplus land actions are not subject to the local government planning process. The acquisition of the private parcels is consistent with section 187.201(9), F.S., the Natural Systems and Recreational Lands' section of the State Comprehensive Plan.

(See Attachment 13, Pages 1-20)

RECOMMEND APPROVAL

Item 14 Jackson County Conveyance (Arthur G. Dozier School for Boys)/Determination

REQUEST: Consideration of (1) a request, pursuant to Chapter 2017-69, Laws of Florida, to convey approximately 360 acres historically known as the North Campus and South Campus of the Arthur G. Dozier School for Boys and the associated Boot Hill Cemetery in Marianna, Florida to Jackson County, a political subdivision of the State of Florida; (2) a determination in accordance with rule 18-2.018(3)(b)1.c., F.A.C., that the Board of Trustees conveyance of approximately 919 acres of state-owned property to Jackson County provides a greater benefit to the public than its retention in state ownership; and (3) a request to donate the approximately 919 acres of state-owned property to Jackson County.

VOTING REQUIREMENT FOR APPROVAL: Three votes

COUNTY: Jackson

APPLICANT: Jackson County

LOCATION: Sections 05 through 08, Township 04 North, Range 10 West

STAFF REMARKS:

Background

The Board of Trustees received title to the original Arthur G. Dozier School for Boys (Dozier) property in 1971 from the former Department of Health and Rehabilitative Services (HRS) pursuant to legislative mandate. The Board of Trustees subsequently leased the property to HRS, now the Department of Juvenile Justice, under Lease No. 2771. Over the years the site was subdivided into several additional leases with other state agencies and local government.

The school, which closed in 2011 and displaced nearly 300 local and state employees, was the subject of a forensic investigation conducted by the University of South Florida from 2013 to 2016. As a result of the investigation and pursuant to Chapter 2017-69, Section 4(3), Laws of Florida, the Board of Trustees is to convey to Jackson County in fee simple the land historically known as

Item 14, cont.

the North Campus, the South Campus and Boot Hill Cemetery. This property is currently made up of a 101-acre North campus, leased to the Department of Education under Board of Trustees Lease No. 3989; a 221-acre South Campus leased to the Department of Juvenile Justice under Board of Trustees Lease No. 2771; the 2.24-acre Boot Hill Cemetery, currently within Board of Trustees Lease No. 3447 to PRIDE (Prison Rehabilitative Industries and Diversified Enterprises, Inc.); 29.25 acres under Board of Trustees Lease No.3670 with Jackson County; and the 6-acre Board of Trustees Lease No. 4439 with the City of Marianna (collectively the “North Campus, South Campus and Boot Hill Cemetery Property”). The legislation requires a deed restriction to memorialize and maintain the structure known as the “White House” on the South campus with a 50-foot buffer, excluding existing roadways surrounding the structure, and the Boot Hill Cemetery with a 100-foot buffer surrounding the cemetery, with both having perpetual public easements reserved in the deed for ingress and egress. An approximately 10.9-acre parcel of the original Dozier School property is leased to the Florida Forest Service for the Marianna Forestry Station under Board of Trustees Lease No. 3508 and will remain in state ownership.

Pursuant to Jackson County Resolution No. 2018-15, Jackson County has indicated that it will accept the North Campus, South Campus and Boot Hill Cemetery Property. In the same resolution, Jackson County has requested the Board of Trustees convey the remaining available 919 acres, subject to Board of Trustees Lease No. 3447 to PRIDE (919-acre Property), to Jackson County at no cost. The County is seeking to revitalize its economic outlook to match other Florida communities and the North Campus, South Campus and Boot Hill Cemetery Property as well as the 919-acre Property (collectively “Dozier Property”) are included in the planning. Research by DSL has determined the 919-acre Property is no longer being used by the Department of Juvenile Justice and the Department of Education for the purposes for which it was leased and a portion of the Property was obtained by the Board of Trustees at no cost.

In 2015, the Florida Department of Economic Opportunity provided a grant through the Rural Infrastructure Fund program to assist with obtaining the McCallum Sweeny Industrial Site Certification for 258 acres adjacent to Exit 136 on Interstate 10 in Jackson County. A portion of the industrial site is being used as the Family Dollar Distribution Center. The County has now been awarded a \$5,880,000 grant to redevelop the nearly 1,300-acre Dozier Property which will support the creation of a regional industrial/manufacturing employment center. The second grant was provided by the Florida Job Growth Grant Fund, established by Governor Scott and the Florida Legislature last year, to provide funding for improving public infrastructure and enhancing workforce training in Florida. When combined, the industrial site and Dozier Property will encompass almost 2,000 acres with a focus on growing and recruiting logistics operations and light manufacturing.

The new grant funding will also be used to develop an Autism Transition training center supporting vocational and academic education of young people living with autism. The training center is planned to enable the region to generate additional potential ready-to-work employees - an idea that has spurred the interest of corporate entities. Jackson County is now working on a partnership

Item 14, cont.

that would utilize the graduates of the center to work in distribution centers. The proposed manufacturing center will go hand-in-hand with the training and support provided to these young adults as they transition from high school into the workforce and progress toward an independent adult life.

Statutory and Rule Requirements

Pursuant to Chapter 2017-69, Laws of Florida, the Board of Trustees is required to convey the North Campus, South Campus and Boot Hill Cemetery Property, as described above, subject to a deed restriction to memorialize and maintain the White House, including a 50-foot buffer, and the Boot Hill Cemetery, including a 100-foot buffer, along with perpetual public easements to each site for ingress and egress.

Rule 18-2.018(3)(b)1.c., F.A.C., provides that the Board of Trustees may convey an upland parcel if the donation results in a greater benefit to the public than its retention in state ownership. DSL offers the following to assist the Board of Trustees in making affirmative determinations that the conveyance of the 919-acre Property to Jackson County results in a greater public benefit:

- Jackson County is designated as a Northwest Rural Area of Opportunity by executive order due to its unemployment rates and recognized economic challenges;
- the labor force in Jackson County is 13 percent lower and K-12 enrollment is 6 percent lower than in 2008;
- the additional 919-acre Property can be used to enhance and support the success and sustainability of the regional distribution and manufacturing center and the Autism Training Center in two main ways:
 - a portion of the space will be used for affordable housing for students of the training center and, now, many displaced citizens impacted by Hurricane Michael as well;
 - the remaining acreage will be used as a Commerce Park to bring industry that will re-energize this area's depressed economy as well as provide industries to partner with the Autism Training Center;
- transferring ownership to Jackson County will allow for the direct, hands-on local oversight that will be vital to the success of the project; and
- the donation will assist the citizens of Jackson County in their efforts to revitalize their local economy to match the growing economy in the rest of the State of Florida which was a priority even before the community was economically challenged by the impacts of Hurricane Michael.

Noticing

Jackson County was noticed of the Board of Trustees intent to convey the North Campus, South Campus and Boot Hill Cemetery Property pursuant to Chapter 2017-69, Laws of Florida and the 919-acre Property pursuant to rule 18-2.018(3)(b)1.c., F.A.C., to Jackson County.

Item 14, cont.

Comprehensive Plan

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

(See Attachment 14, Pages 1-9)

RECOMMEND APPROVAL

Item 15 Lyme Cross City Forest Company, LLC, Option Agreement/Conservation Easement/ Lower Suwannee River and Gulf Watershed Florida Forever Project

REQUEST: Consideration of (1) an option agreement to acquire a conservation easement over approximately 19,225 acres within the Lower Suwannee River and Gulf Watershed Florida Forever project from Lyme Cross City Forest Company, LLC; and (2) the authority to waive the survey requirement, pursuant to rule 18-1.005, F.A.C.

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.

COUNTY: Dixie

LOCATION: Sections 24, 25 and 36, Township 11 South, Range 12 East; Sections 18-22, 27-34, Township 11 South, Range 13 East; Sections 1, 2, 11-14, 23-26 and 35, Township 12 South, Range 12 East; and Sections 4-8, 17-19, and 30, Township 12 South, Range 13 East, Dixie County

CONSIDERATION: \$6,400,000 (If National Fish and Wildlife Foundation (NFWF) funding is approved, the Board of Trustees' consideration could be reduced by as much \$5,400,000 per NFWF approval. The Board of Trustees' portion would then be \$1,000,000 or 16 percent.)

<u>PARCEL</u>	<u>ACRES</u>	<u>APPRAISED BY</u>		<u>APPROVED</u> <u>VALUE</u>	<u>SELLER'S</u> <u>PURCHASE</u> <u>PRICE</u>	<u>TRUSTEES'</u> <u>PURCHASE</u> <u>PRICE</u>	<u>OPTION</u> <u>DATE</u>
		<u>(05/25/18)</u> Candler	<u>(05/25/18)</u> Ryan				
Lyme	19,225	\$7,664,000	\$7,110,000	\$7,664,000	\$52,000,000*	\$6,400,000** (84%)	120 days after BOT Approval

*Property was acquired as part of a larger parcel consisting of 46,520 acres on December 20, 2013.

**\$334 per acre.

STAFF REMARKS: The subject parcel is located within the Lower Suwannee River and Gulf Watershed Florida Forever project, ranked number 5 in the Florida Forever Less-Than-Fee project category, approved by the Board of Trustees on May 15, 2018. The project contains 58,542 acres, of which 27,300 acres have been acquired or are under agreement to be acquired. If the Board of

Item 15, cont.

Trustees approves this agreement, 31,242 acres, or 53 percent of the project, will remain to be acquired.

Project Description

The purpose for the proposed acquisition is to protect and enhance water quality, to enhance management practices of the ongoing silviculture operation, and to protect wetland communities, wildlife habitat and archaeological sites found within the proposal boundary. Purchase of a conservation easement over the property would buffer and protect the natural resources of the Suwannee River and the Gulf of Mexico and provide habitat and corridors for rare plants and animals over a wide swath of undeveloped public lands, including the neighboring Big Bend Wildlife Management Area (WMA), the Lower Suwannee National Wildlife Refuge (NWR), the Suwannee River Water Management District conservation areas (SRWMD), and the Big Bend Seagrasses Aquatic Preserve (BBSAP).

The Lower Suwannee River and Gulf Watershed project meets the Florida Forever measures and public purposes of enhancing the coordination and completion of land acquisition projects, using alternatives to fee-simple; increasing the protection of Florida’s biodiversity at the species, natural community and landscape levels; protecting, restoring and maintaining the quality and natural functions of land, water and wetland systems of the state; ensuring that sufficient quantities of water are available to meet the current and future needs of natural systems and the citizens of the state; increasing natural resource-based public recreation or educational opportunities; preserving significant archaeological or historic sites; and increasing the amount of forestland available for sustainable management of natural resources.

The timber industry is the largest employer in Dixie County. Approximately 90 percent of the forests in the County are privately owned. Each job created (or lost) in the wood product industry in Dixie County creates (or eliminates) 1.2 more jobs elsewhere in the Big Bend and generates (or loses) a total income of \$99,300.

Forestry, fishing, hunting, and agricultural support industries are 11 times more important to, or more concentrated in, the economy of Dixie County than in the rest of Florida. These key industries and the lands that support them, which provide a sizeable number of jobs and have a large ripple effect on the rest of the economy, serve as the economic base of the region. Whether these businesses are involved in wood products manufacturing, agriculture, or shellfish harvesting, they are dependent on healthy forests and clean water supplies. Any threats to timber supply or water quality/quantity would have a significant impact on the overall economy of the region.

The U. S. Fish and Wildlife Service (USFWS), Florida Fish and Wildlife Conservation Commission (FWC), and the Department of Environmental Protection’s (DEP) Florida Coastal Office (FCO) support this project as well as the great protection this conservation easement, and the possibility of future conservation easements, will provide for the local coastal area. This project will provide connectivity and protection to FWC’s Big Bend WMA, USFWS’s Lower Suwannee River NWR, SRWMD’s California Swamp Conservation Area and FCO’s BBSAP.

Item 15, cont.

If approved, NFWF may be providing funding for this project through its Gulf Environmental Benefit Fund (GEBF). In early 2013, a U.S. District Court approved two plea agreements resolving certain criminal cases against BP and Transocean which arose from the 2010 Deepwater Horizon explosion and oil spill. The agreements directed a total of \$2.544 billion to NFWF to fund projects benefiting the natural resources of the Gulf Coast that were impacted by the spill. Of this amount, \$356 million is allocated for projects in the State of Florida. GEBF funds projects to conserve and enhance coastal habitats, restore beach and dune habitats, protect habitat important to coastal bird species and increase the capacity of networks to respond to mass stranding events.

Property Information

The subject parcel is owned by Lyme Cross City Forest Company, LLC, which is a subsidiary of The Lyme Timber Company LP (Lyme). Lyme is a private timberland investment management organization that focuses on the acquisition and sustainable management of lands with unique conservation values. Since its founding in 1976, Lyme has followed a disciplined and value-oriented approach to investing in forestland and rural real estate. Lyme's current portfolio includes 700,000 acres located in New York, Pennsylvania, West Virginia, Tennessee, Florida, California, Colorado, South Carolina, Louisiana, and Alabama.

Lyme acquired four large tracts of land, totaling approximately 46,520 acres, on December 20, 2013. The subject parcel is one of the four tracts, which totals approximately 19,225 acres. One tract totaling 8,075 acres was previously acquired by the Board of Trustees on September 13, 2016. The remaining two tracts will be proposed as potential future conservation easement acquisitions based on their contiguous acreage and funding availability.

The subject parcel is part of a multi-agency, conservation easement partnership between the State of Florida's DEP, the SRWMD, the Natural Resource Conservation Service, the USFWS/Lower Suwannee NWR and many other partners. This partnership allows multiple agencies to participate in preserving a large area while connecting a very large conservation area.

The conservation easement will permanently limit development, while allowing the landowner to sustainably harvest timber, thereby ensuring important forestry jobs stay in the community, which is the county's largest employer. It will also enhance ecotourism in the region by protecting the waters in which people swim, fish, scallop, and boat. As such, this has strong community support, as evidenced by two Dixie County Commission resolutions which resolved to provide its support of the project being proposed originally and to accomplish the watershed and working forest conservation easements.

Prohibited Uses

Under the proposed conservation easement, the property will be restricted in perpetuity by the provisions of the easement, a summary of which includes, but is not limited to, the following prohibited uses:

- Commercial and industrial activities will be prohibited, except as may be incidental to the exercise of grantor's reserved rights, as specifically provided for in Article V;

Item 15, cont.

- New construction or placing of temporary or permanent structures or buildings on the property will be prohibited except as may be necessary for maintenance, normal operation or emergency situations, or as permitted in Article V;
- Signs, billboards, or outdoor advertising is prohibited except signs designating the property as conservation lands protected by the State of Florida;
- Construction of new roads or jeep trails will be prohibited, except as associated with restoration activities allowed under the provisions of Article V of the easement;
- Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife preservation will be prohibited, unless needed for maintenance as provided in the easement; Commercial water wells on the property are prohibited;
- Exploration by the grantor for and extraction of oil, gas, minerals, peat, muck, limestone, etc., by means of surface exploratory and extractors operations will be prohibited, except as reasonably necessary to combat erosion or flooding, or except as necessary and lawfully permitted for the conduct of permitted activities;
- Subdivision of the property is prohibited, except as provided in the easement under Article V;
- Dumping of trash, waste, hazardous materials, and soil will be prohibited;
- There shall be no planting of nuisance exotic or non-native plants;
- Acts or uses detrimental to the preservation of any historical, or archaeological area, will be prohibited;
- Actions or activities that may be expected to adversely affect threatened or endangered species is prohibited;
- The removal, destruction, cutting, trimming, mowing, alteration, or spraying with biocides of trees, shrubs, or other natural vegetation will be prohibited, unless needed for conservation purposes, as provided in the easement under Article V;
- The operation of motorized vehicles will be prohibited except on established trails and roads unless (1) necessary to protect or enhance the conservation values of the property; (2) for emergency purposes; (3) cattle ranching and silviculture purposes; (4) manage food plots for game management; and (5) retrieve game hunted legally;
- Current agricultural uses shall not be converted to more intense agricultural uses and Natural Areas shall remain Natural Areas;
- Fertilizer use shall be in accordance with BMPs around sinkholes, karsts, and springs (100-foot buffer); and
- There shall be no mitigation banks established on the property.

Owner's Rights Retained

The proposed conservation easement will allow the owner to retain certain rights. The summary of owner's rights includes, but is not limited to, the following:

- The easement runs with the land and will be included in any sale of the property;
- The right to mortgage the property;
- The property shall remain in its current configuration as an entirety without division;

Item 15, cont.

- The right to observe, maintain, photograph, fish, hunt, and introduce and stock native fish or wildlife, to use the property for non-commercial, passive, resource-based recreation not inconsistent with the purpose of the easement. In addition, the owner reserves hunting and fishing rights related to the property and may lease and sell privileges of such rights, up to 15 hunting camp areas with no more than 10 wildlife food plots of no more than five acres each;
- The right to conduct commercial forestry operations in accordance with BMPs except in the Natural Areas, which will remain in their natural state;
- There shall be no harvesting in the wetlands except if needed after a natural disaster;
- The right to conduct controlled and prescribed burns with proper authorization;
- The right to continue existing agricultural practices, as depicted in the BDR, and the use of commonly accepted fertilizers, pesticides, and herbicides using best management practices (BMP);
- In lieu of an approved Forestry Plan, Grantor shall participate in a Forest Certification Program which has requirements consistent with Sustainable Forest practices;
- Grantor does not provide public access;
- The right to conduct eco-tours over the property;
- Grantor reserves the right to any carbon credits;
- Grantor reserves the right to seek permits for consumptive uses of water;
- Grantor reserves the right to engage in properly permitted wetland restoration and enhancements;
- The right to continue to use, maintain, repair, and reconstruct, but not relocate or enlarge all existing buildings as depicted on the Baseline Documentation Report (BDR); and
- The right to construct new roads, maintain, and improve existing roads, as needed, for silviculture purposes in accordance with the BMPs.

Mortgages and Liens

All mortgages and liens will be satisfied at the time of closing. 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 will review, evaluate, and implement an appropriate resolution for any title issues that arise prior to closing.

Survey Waiver

It is the opinion of DEP's Bureau of Survey and Mapping that the available boundary information is sufficient to protect the public's interest, and any additional benefit derived from a survey is minimal relative to cost. Therefore, a waiver of the requirement for a survey of this property is being requested, pursuant to rule 18-1.005, F.A.C.

Closing Information

A title insurance commitment, environmental site assessment, and a baseline documentation report will be provided by the purchaser prior to closing.

Item 15, cont.

Monitoring Agency

The subject property will be monitored by DEP’s Office of Environmental Services (OES). The site will be monitored as a silviculture operation based on the Baseline Documentation Report and according BMPs. OES currently monitors 121 conservation easements for 233,396 acres. If approved, this will be the 122nd conservation easement acquired, increasing the total acreage under conservation easement by DEP to 252,621 acres.

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 15, Pages 1-87)

RECOMMEND APPROVAL

Item 16 Arnold Option Agreement/ Wekiva-Ocala Greenway Florida Forever Project

REQUEST: Consideration of the acceptance of an option agreement to acquire approximately 165 acres within the Wekiva-Ocala Greenway Florida Forever project from Sheila May Rodgers Arnold.

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.

COUNTY: Lake

LOCATION: Sections 03 and 04, Township 18 South, Range 28 East

CONSIDERATION: \$579,600

<u>PARCEL</u>	<u>ACRES</u>	APPRAISED BY Albright (07/16/18)	APPROVED <u>VALUE</u>	SELLER’S PURCHASE <u>PRICE</u>	TRUSTEES’ PURCHASE <u>PRICE</u>	OPTION <u>DATE</u>
Arnold	165	\$644,000	\$644,000	\$216,700*	\$579,600** (90%)	120 days after BOT Approval

*Seller purchased the subject property, which included other property not included in this transaction, on October 17, 1983.

**\$3,512.73 per acre.

STAFF REMARKS: The parcel is located within the Wekiva-Ocala Greenway Florida Forever project, ranked number 5 in the Florida Forever Critical Natural Lands project category, approved by the Board of Trustees on June 20, 2018. The project contains 81,128 acres, of which 58,217 acres have been acquired or are under agreement to be acquired. If the Board of Trustees approves this agreement, 22,911 acres, or 28 percent of the project, will remain to be acquired.

Item 16, cont.

Project Description

The springs, rivers, lakes, swamps, and uplands stretching north from Orlando to the Ocala National Forest are an important refuge for the Florida black bear, as well as other wildlife such as the bald eagle, swallowtailed kite, Florida scrub jay, and wading birds. The Wekiva-Ocala Greenway will protect these animals and the Wekiva and St. Johns River basins by protecting natural corridors connecting Wekiwa Springs State Park, Rock Springs Run State Reserve, the Lower Wekiva River State Reserve, and Hontoon Island State Park with the Ocala National Forest.

The 165-acre property (subject parcel) is located in Paisley, a small community within the Orlando-Kissimmee Metropolitan Statistical Area; irregular in shape, and bounded to the east and south by Seminole State Forest (Forest). The Tracy Canal, extending from Lake Tracy and connecting to Lake Norris, runs along the southern boundary of the subject parcel.

The subject parcel lies within the Wekiva River Protection Area (WRPA) and Wekiva River Basin, a complex ecological system of ravines, springs, seepage areas, lakes, streams, sinkholes, wetland prairies, hardwood hammocks, pine flatwoods and sand pine communities. The WRPA is an area of natural resource of state and regional importance and, if the subject parcel is purchased, it will satisfy the legislative intent to acquire land within the WRPA pursuant section 369.307, F.S.

The successful acquisition of the subject parcel will (1) add to the distinctive character of Seminole State Forest, which includes almost all of the naturally occurring vegetative communities in Central Florida, as well as provide for better management of the Forest by forming a more contiguous boundary and buffer the Florida National Scenic Trail (FNST) and (2) potentially create additional recreational opportunities as the FNST runs along the western boundary of the subject parcel, on Maggie Jones Road.

Mortgages and Liens/Encumbrances

All mortgages and liens will be satisfied at the time of closing. 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, the Department of Environmental Protection's staff will review, evaluate, and implement an appropriate resolution for these and any other title issues that arise prior to closing.

Closing Information

A title insurance commitment, a survey, and an environmental site assessment will be provided by the purchaser prior to closing.

Management

The subject parcel will be managed by the Department of Agriculture and Consumer Services' Florida Forest Service as part of the Forest.

Item 16, cont.

Comprehensive Plan

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 16, Pages 1-23)

RECOMMEND APPROVAL

Item 17 Chapter 18-21, F.A.C., Notice of Proposed Rule/Final Rule Adoption

REQUEST: Consideration of a request to (1) publish a Notice of Proposed Rulemaking to amend twenty-one rules within Chapter 18-21, F.A.C., "Sovereignty Submerged Lands Management" and (2) file the proposed amendment for final adoption with the Department of State, pursuant to section 120.54(3)(e)1., F.S., if there is no Notice of Change made to the Proposed Rule.

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.

COUNTY: Statewide

APPLICANT: Department of Environmental Protection (DEP)

STAFF REMARKS: Rulemaking under Chapter 120, F.S., is structured into three separate major steps: the Notice of Development of Rulemaking, the Notice of Proposed Rule, and Adoption/Certification of the final rule. The Board of Trustees acts as agency head over rules in Title 18, F.A.C. Having completed the first step of rule development, DEP seeks approval to proceed to the next two steps, which, pursuant to section 120.54(1)(k), F.S., may not be delegated.

A Notice of Proposed Rule is published in the *Florida Administrative Register* (FAR) and provides notice of the language intended to be adopted. See section 120.54(3)(a)1., F.S. Following publication, any substantially affected person may submit written comments, request a public hearing on the rule, or challenge the proposed rules. Additionally, staff to the Joint Administrative Procedures Committee can provide comments on the proposed rule. If DEP receives comments and proposes a Notice of Change to the proposed rule, the DEP would return to the Board of Trustees prior to filing the certification package (adoption). If, however, there are no substantive changes that require a Notice of Change to the proposed rule, the DEP asks in this agenda item that the Board of Trustees authorize the DEP to file the certification package for the proposed rule attached.

Item 17, cont.

Background

The proposed rulemaking was initiated by comments staff received from the Joint Administrative Procedures Committee (JAPC). In addition to addressing JAPC comments, staff incorporated revisions to update definitions, remove outdated references, clarify existing language, address statutory changes, update to reflect past Board of Trustees' approvals and to streamline procedures.

Notice of Development of Rulemaking: Pursuant to the Board of Trustees' delegation, the Division of State Lands (DSL) may initiate rulemaking and hold public workshops and hearings upon notification to the Cabinet Offices. On February 6, 2018, DSL sent a memo to the Board of Trustees with Subject: Notice of Intent to Initiate Rulemaking & Publish Notice of Development of Rulemaking. DEP, as staff to the Board of Trustees, published a Notice of Development of Rulemaking for proposed amendments to Chapter 18-1, F.A.C., in the FAR on May 4, 2018.

Public Involvement: A workshop was held on May 23, 2018, via webinar originating from Tallahassee with on-site attendance available at DEP District offices in Tallahassee, Orlando, Fort Myers and West Palm Beach. Members of the public participated online and in person, both providing comments. A follow-up workshop was held on August 21, 2018, via webinar originating from and with on-site attendance available at the DEP headquarters in Tallahassee.

Background

Summary of Proposed Changes

Chapter 18-21, titled "Sovereignty Submerged Lands Management", provides policies and criteria for requests to use sovereignty submerged lands titled to the Board of Trustees. With this rulemaking effort, the DEP seeks to amend twenty-one rules in this Chapter:

- **18-21.002 Scope and Intent**
 - Remove obsolete rule reference.
- **18-21.003 Definitions**
 - Update and/or remove definitions to reflect rule changes.
- **18-21.004 Management Policies, Standards, and Criteria**
 - Provide for minimal nonwater dependent uses pursuant to statute.
 - Remove language specific to public projects for flexibility for the Board of Trustees.
 - Provide criteria for open-air dining.
 - Provide criteria for liveaboards in mooring fields.
 - Changes timing of when proof of upland interest must be provided.
 - Allows the Board of Trustees to determine whether it is in the public interest to make an exception to setbacks.
 - Remove conservation easement requirement for multi-family docks originating from a common parcel.
 - Provide that activities shall not interfere with the public easement for traditional use of sandy beaches to match statute.

Item 17, cont.

- **18-21.00401 Additional Requirements and Procedures for Concurrent Review of Related Applications**
 - Revise rule references for permit applications and proprietary authorizations.
- **18-21.005 Forms of Authorizations**
 - Allow private residential single-family docks in Boca Ciega Bay and Pinellas County Aquatic Preserves with 2 or fewer slips to be granted consent by rule.
 - Eliminate the need for an easement for a single intake/discharge pipe.
 - Provide a form of authorization for restrooms meeting definition to be on public piers.
 - Provide a form of authorization for open-air-dining areas.
 - Provide a form of authorization for deadhead logging.
- **18-21.0051 Delegation of Authority**
 - Allow flexibility for operational changes without the need for amending leases.
 - Address preempted area rather than number of slips and increase authorization to approve preempted area to less than 150,000 by delegation consistent with past Board of Trustees' approvals.
 - Authorize approval of open-air-dining under specific criteria.
 - Address tenancy in public mooring fields
- **18-21.0056 Procedures for the Review of Applications to Conduct Geophysical Testing**
 - Request email address as part of application.
 - Clarification language.
- **18-21.007 Applications for Letter of Consent**
 - Request email address as part of application.
 - Clarification language.
- **18-21.0077 Applications for Use Agreements**
 - Request email address as part of application.
- **18-21.008 Applications for Lease**
 - Provide for a 10-year term on private residential leases.
 - Request email address as part of application.
 - Change survey requirements to allow for submittal of sketches in certain circumstances.
 - Clarify lease terms on renewals.
 - Update rule reference and fees to current level.
- **18-21.0082 Applications for Special Event Authorizations**
 - Delete obsolete form.
 - Request email address as part of application.
 - Deleted as form was unnecessary and added no value.

Item 17, cont.

- **18-21.009 Applications for Public Easement**
 - Require total square footage to be shown on the sketch for public easements.
 - Request email address as part of application.
- **18-21.010 Applications for Private Easement**
 - Request email address as part of application.
 - Change survey requirements to allow for submittal of sketches in certain circumstances for private easements.
 - Set a maximum term of 25 years for private easements.
- **18-21.011 Payments and Fees**
 - Delete language requiring appraisals and remove unnecessary lease term language.
 - Amend to apply a specific multiplier to the base fee for nonwater dependent uses.
 - Clarify the application of “not an adjunct to a commercial endeavor”.
 - Amend per statute.
 - Remove requirement of appraisal for private easements in lieu of flat fee based on square footage and term.
 - Add fee for deadhead logging easements.
 - Clarify there are no fees for treasure salvage easements. (Salvage fees are specified by the Department of State.)
 - Revise language for waiver requirements on dredged materials.
- **18-21.013 Applications to Purchase Filled Lands Adjacent to Riparian Uplands**
 - Remove certain survey requirements related to mean high water.
- **18-21.019 Applications for Disclaimers, Quitclaim Deeds or Certificates to Clear Title to Filled Formerly Sovereignty Lands, and for Disclaimers for Lands Lost Due to Avulsion or to Reclaim Lands Lost Due to Artificial Erosion or Artificial Erosion and Avulsion**
 - Remove two applications related to avulsion and artificial erosion, and avulsion.
- **18-21.020 Aquacultural Activities**
 - Clarify rule language.
- **18-21.021 Applications for Aquacultural Activities**
 - Clarification changes by DACS to update how to locate forms on the internet, update aquaculture lease area language and terms for lease renewals, modifications and assignments.
- **18-21.022 Payments and Fees for Aquacultural Activities**
- **18-21.900 Forms**

(See Attachment 17, Pages 1-20)

RECOMMEND APPROVAL

Item 18 Chapter 18-20, F.A.C., Notice of Proposed Rule/Final Rule Adoption

REQUEST: Consideration of a request to (1) publish a Notice of Proposed Rulemaking to amend six rules within Chapter 18-20, F.A.C., “Florida Aquatic Preserves” and (2) file the proposed amendment for final adoption with the Department of State, pursuant to section 120.54(3)(e)(1), F.S., if there is no Notice of Change made to the Proposed Rule.

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.

COUNTY: Statewide

APPLICANT: Department of Environmental Protection (DEP)

STAFF REMARKS: Rulemaking under Chapter 120, F.S., is structured into three separate major steps: the Notice of Development of Rulemaking, the Notice of Proposed Rule, and Adoption/Certification of the final rule. The Board of Trustees acts as agency head over rules in Title 18, F.A.C. Having completed the first step of rule development, DEP seeks approval to proceed to the next two steps, which, pursuant to section 120.54(1)(k), F.S., may not be delegated.

A Notice of Proposed Rule is published in the Florida Administrative Register (FAR) and provides notice of the language intended to be adopted. See section 120.54(3)(a)1., F.S. Following publication, any substantially affected person may submit written comments, request a public hearing on the rule, or challenge the proposed rules. Additionally, staff to the Joint Administrative Procedures Committee can provide comments on the proposed rule. If DEP receives comments and proposes a Notice of Change to the proposed rule, the DEP would return to the Board of Trustees prior to filing the certification package (adoption). If, however, there are no substantive changes that require a Notice of Change to the proposed rule, the DEP asks in this agenda item that the Board of Trustees authorize the DEP to file the certification package for the proposed rule attached.

Background

The proposed rulemaking was initiated by comments staff received from the Joint Administrative Procedures Committee (JAPC).

Notice of Development of Rulemaking: Pursuant to the Board of Trustees’ delegation, the Division of State Lands (DSL) may initiate rulemaking and hold public workshops and hearings upon notification to the Cabinet Offices. On February 6, 2018, DSL sent a memo to the Board of Trustees with Subject: Notice of Intent to Initiate Rulemaking & Publish Notice of Development of Rulemaking. DEP, as staff to the Board of Trustees, published a Notice of Development of Rulemaking for proposed amendments to Chapter 18-1, F.A.C., in the FAR on May 4, 2018.

Public Involvement: A workshop was held on May 23, 2018, via webinar originating from Tallahassee with on-site attendance available at DEP District offices in Orlando, Fort Myers and West Palm Beach. A second workshop was held on August 21, 2018, via webinar originating from Tallahassee. Members of the public participated online and in person, both providing comments.

Item 18, cont.

Background

Summary of Proposed Changes

Chapter 18-20, titled “Florida Aquatic Preserves”, establishes land and resource management strategies, as well as specific proprietary and regulatory criteria for all aquatic preserves with the exception of Biscayne Bay Aquatic Preserve. With this rulemaking effort, the DEP seeks to amend six rules in this Chapter:

- **18-20.002 Boundaries and Scope of the Preserves**
 - Proposed rule change will eliminate unnecessary rule language to resolve JAPC concerns.
- **18-20.003 Definitions**
 - Update definitions to be consistent with proposed revisions and/or existing language in 18-21, F.A.C.
- **18-20.004 Management Policies, Standards, and Criteria**
 - Proposed rule change will clarify and eliminate unnecessary language to resolve JAPC concerns.
- **18-20.013 Development of Resource Inventories and Management Plans for Preserves**
 - Proposed rule change will clarify language to resolve JAPC concerns.
- **18-20.017 Lake Jackson Aquatic Preserve**
 - Proposed rule change will eliminate unnecessary language to resolve JAPC concerns.
- **18-20.019 Boca Ciega Bay and Pinellas County Aquatic Preserves**
 - Proposed rule change will eliminate and/or update rule language to resolve JAPC concerns.

(See Attachment 18, Pages 1-14)

RECOMMEND APPROVAL

Item 19 Spears Water Column Aquaculture Lease

REQUEST: Approval to issue one, 7.5-acre, ten-year sovereignty submerged land aquaculture lease to authorize use of the full water column for the purpose of shellfish aquaculture.

VOTING REQUIREMENT FOR APPROVAL: Three votes

LOCATION: Oyster Bay, Wakulla County, Florida

APPLICANT: Edwin Mitch Spears

Item 19, cont.

CONSIDERATION: An annual fee of \$347.68 for a 7.5-acre lease parcel, representing a base annual rental fee of \$33.46 per acre or fraction thereof; and an annual surcharge of \$10.00 per acre or fraction thereof, pursuant to rule 18-21.022, F.A.C. The annual fee and surcharge collected will be deposited in the General Inspection Trust Fund, pursuant to sections 597.010(5)(b) and (7), F.S.

STAFF REMARKS: The requested lease parcel is approximately 7.5 acres in size and is located in Oyster Bay in Wakulla County. The applicant is requesting authorization from the Board of Trustees, pursuant to section 253.68(1), F.S., for a new aquaculture lease for the purpose of culturing oysters in floating gear using the full water column.

The applicant is an Aquaculture Certificate of Registration holder and is in compliance with the Florida Department of Agriculture and Consumer Services' (FDACS) Aquaculture Best Management Practices. Prior to execution of the lease, the applicant is required to provide FDACS with a survey of the lease site.

Agency Review

FDACS has conducted resource assessments and determined that the proposed lease and associated aquaculture activities will not result in adverse impacts to seagrasses, existing shellfish beds, natural reefs or other sensitive habitats. Additionally, FDACS has coordinated the review of the application with the Florida Department of Environmental Protection, the Florida Fish and Wildlife Conservation Commission, the Florida Department of State's Division of Historical Resources, and the Wakulla County Board of County Commissioners, pursuant to rule 18-21.021, F.A.C.

Special Conditions

The proposed lease will be subject to the terms and conditions applied to other aquaculture leases issued throughout the state for the same purposes, including the provision that the transfer or sale of the lease will not be approved during the first five years of the lease term. The requirement to obtain a permit from the United States Coast Guard for Private Aids to Navigation will be a special condition of the lease. The proposed gear is covered under the FDACS general permit from the Army Corps of Engineers.

Public Interest

The proposed parcel is not in an aquatic preserve, therefore the activity does not have to be found to be in the public interest. The project is, however, required to demonstrate that it is "not contrary to the public interest," pursuant to Article X, Section 11 of the Florida Constitution, chapter 253, F.S., and rule 18-21.004(1)(a), F.A.C. Because the Legislature has declared aquaculture to be in the public interest, according to section 253.68(2)(a), F.S., FDACS is of the opinion that the activity meets the test of being "not contrary to the public interest" and otherwise meets all applicable requirements for a proprietary authorization to use sovereignty submerged lands.

Item 19, cont.

Noticing

The proposed lease was noticed pursuant to section 253.70, F.S., and no objections were received.

Comprehensive Plan

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

(See Attachment 19, Pages 1-20)

RECOMMEND APPROVAL

Item 20 Alligator Harbor Aquaculture Use Zone Expansion/Aquaculture Leases/Alligator Harbor Aquatic Preserve

REQUEST: Approval to (1) expand the existing Alligator Harbor Aquaculture Use Zone (AUZ); and (2) issue twenty-one, 1.5-acre, ten-year sovereignty submerged land aquaculture water column leases.

VOTING REQUIREMENT FOR APPROVAL: Three Votes

LOCATION: Alligator Harbor Aquatic Preserve, Alligator Harbor, Franklin County, Florida

APPLICANT: Florida Department of Agriculture and Consumer Services (FDACS)

CONSIDERATION: An annual fee of \$86.92 for each 1.5-acre parcel, representing a base annual rental fee of \$33.46 per acre or fraction thereof; and an annual surcharge of \$10.00 per acre or fraction thereof, pursuant to Rule 18-21.022, Florida Administrative Code (F.A.C.). The annual fee and surcharge collected will be deposited in the General Inspection Trust Fund, pursuant to Sections 597.010(5)(b) and (7), F.S.

STAFF REMARKS: The requested lease parcels are approximately 1.5 acres and are located in Alligator Harbor as well as the Alligator Harbor Aquatic Preserve in Franklin County. FDACS is requesting authorization from the Board of Trustees, pursuant to section 253.68 (1), F.S., for twenty-one, new aquaculture leases for the purpose of culturing shellfish in the water column and on the bottom. The proposed parcels are an expansion of the Alligator Harbor AUZ, where there are 46 existing lease sites, of which 41 are currently utilizing the full water column. On August 2, 2016, the Board of Trustees authorized FDACS to modify remaining bottom leases upon request by the leaseholder and review by FDACS. For consistency, FDACS is requesting authorization to use the full water column for the 21 new leases as well.

Item 20, cont.

If approved, FDACS intends to issue lease sites through a random selection process and, as requested by Franklin County, preference will be given to Franklin and Wakulla county residents. FDACS will advertise availability of the newly-created sites in the local newspaper, publicly announcing a 15-day lease application window in which FDACS will accept applications. Only one application per person or business will be accepted. Once the application window has closed, FDACS will use a random number generator to assign a selection order to those applications received during the application window with preference given to Franklin and Wakulla county residents. FDACS recommends an additional preference for those that have not previously held a ten-year renewable submerged land lease. FDACS will then notify the twenty-one highest ranked applicants and allow 15 days for each to submit the \$200 lease application fee. If the fee is not received within the deadline, the next highest ranked applicant will be notified and allowed 15 days to furnish the application fee. Upon receipt of the application fees for all twenty-one parcels, FDACS will conduct an open meeting where the applicants will select lease parcels in ranked order.

Agency Review

FDACS has conducted resource assessments and determined that the proposed leases and associated aquaculture activities will not result in adverse impacts to seagrasses, existing shellfish beds, natural reefs or other sensitive habitats. Additionally, FDACS has coordinated review and comments of the planned expansion with the Florida Department of Environmental Protection, the Florida Fish and Wildlife Conservation Commission, the Florida Department of State's Division of Historical Resources, and the Franklin County Board of County Commissioners, pursuant to rule 18-21.021, F.A.C.

Special Conditions

The proposed leases will be subject to the terms and conditions applied to other aquaculture leases issued throughout the state for the same purposes, including the provision that the transfer or sale of the leases will not be approved during the first five years of the lease terms. Prior to execution of the leases, the applicants are required to provide FDACS with a survey of the individual parcels and the expanded AUZ. The proposed culture gear is covered under the FDACS general permit from the Army Corps of Engineers. Any leaseholders requesting to modify their lease for use of the full water column will be required to install associated lighting and signage to aid boaters with navigation pursuant to a Private Aids to Navigation permit from the United States Coast Guard.

Public Interest

The Florida Aquatic Preserve Act provides that no further sale, lease, or transfer of sovereignty submerged lands shall be approved within an aquatic preserve, unless the sale, lease, or transfer is in the public interest. The Aquatic Preserve Act specifically provides that "aquaculture is in the public interest and aquaculture leases may be authorized in aquatic preserves..." [Section 258.42(1)(b), F.S.] Accordingly, FDACS recommends that the Board of Trustees find that the leases are in the public interest, as set forth in statute.

Item 20, cont.

Noticing

The proposed leases were noticed pursuant to section 253.70, F.S., and comments from the Franklin County Board of County Commissioners (BOCC) were received related to a preference for applicants from Franklin and Wakulla counties, as well as availability of boat launch sites in the area. In response to the first comment, FDACS has included a recommendation to the Board of Trustees for a preference to applicants from Franklin and Wakulla counties. Additionally, FDACS' Division of Aquaculture responded to Franklin County with information regarding public boat launch sites.

Comprehensive Plan

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

(See Attachment 20, Pages 1-14)

RECOMMEND APPROVAL

Item 21 Polous Water Column Aquaculture Leases

REQUEST: Approval to issue three, five-acre, ten-year sovereignty submerged land aquaculture leases to authorize use of the full water column for the purpose of shellfish aquaculture.

VOTING REQUIREMENT FOR APPROVAL: Three votes

LOCATION: Apalachicola Bay, Apalachicola Bay Aquatic Preserve, Franklin County, Florida

APPLICANT: Benjamin Paul Polous

CONSIDERATION: An annual fee of \$217.30 for each five-acre lease parcel, representing a base annual rental fee of \$33.46 per acre or fraction thereof; and an annual surcharge of \$10.00 per acre or fraction thereof, pursuant to rule 18-21.022, F.A.C. The annual fee and surcharge collected will be deposited in the General Inspection Trust Fund, pursuant to sections 597.010(5)(b) and (7), F.S.

STAFF REMARKS: The requested lease parcels are approximately five acres in size and are located in Apalachicola Bay as well as the Apalachicola Bay Aquatic Preserve in Franklin County. The applicant is requesting authorization from the Board of Trustees, pursuant to section 253.68(1), F.S., for new aquaculture leases for the purpose of culturing oysters in floating gear using the full water column.

Item 21, cont.

The applicant will be required to apply for an Aquaculture Certificate of Registration and comply with all Florida Department of Agriculture and Consumer Services' (FDACS) Aquaculture Best Management Practices. Upon approval, the leases will be surveyed by the applicant.

Agency Review

FDACS has conducted resource assessments and determined that the proposed leases and associated aquaculture activities will not result in adverse impacts to seagrasses, existing shellfish beds, natural reefs or other sensitive habitats. Additionally, FDACS has coordinated the review of the applications with the Florida Department of Environmental Protection, the Florida Fish and Wildlife Conservation Commission, the Florida Department of State's Division of Historical Resources, and the Franklin County Board of County Commissioners, pursuant to rule 18-21.021, F.A.C.

Special Conditions

The proposed leases will be subject to the terms and conditions applied to other aquaculture leases issued throughout the state for the same purposes, including the provision that the transfer or sale of the lease will not be approved during the first five years of the lease terms. The requirement to obtain a permit from the United States Coast Guard for Private Aids to Navigation will be a special condition of the lease.

The proposed leases are located within Gulf Sturgeon critical habitat. Pursuant to a special condition of the permit, the off-bottom basket methodology is prohibited on new leases within Gulf Sturgeon critical habitat, but the floating basket and suspended basket or longline methodologies are allowed for shellfish aquaculture. The applicant is planning to use the floating basket method for shellfish production. The proposed gear is authorized under the FDACS general permit from the Army Corps of Engineers.

Public Interest

The Florida Aquatic Preserve Act provides that no further sale, lease, or transfer of sovereignty submerged lands shall be approved within an aquatic preserve, unless the sale, lease, or transfer is in the public interest. The Aquatic Preserve Act specifically provides that "aquaculture is in the public interest and aquaculture leases may be authorized in aquatic preserves..." [Section 258.42(1)(b), F.S.] Accordingly, FDACS recommends that the Board of Trustees find that the leases are in the public interest, as set forth in statute.

Noticing

The proposed lease was noticed pursuant to section 253.70, F.S., and no objections were received.

Comprehensive Plan

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

Item 21, cont.

(See Attachment 21, Pages 1-17)

RECOMMEND APPROVAL

Item 22 Adams Alapaha Conservation Easement/FDACS/Rural & Family Lands Protection Program

REQUEST: Consideration of (1) an option agreement to acquire an 858-acre perpetual conservation easement over lands lying within the Adams Alapaha project of the Florida Department of Agriculture and Consumer Services' Florida Forest Service (FDACS/FFS) Rural & Family Lands Protection Program (RFLPP) from Florida Commission Company; and (2) designation of FDACS/FFS as the monitoring agency.

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.

APPLICANT: Florida Department of Agriculture and Consumer Services' Florida Forest Service

COUNTY: Hamilton

LOCATION: Portions of Sections 17, 18, 19, 20, and 30, Township 1 North, Range 13 East

CONSIDERATION: \$463,500

<u>PARCEL</u>	<u>ACRES</u>	APPRAISED BY Marr (07/12/18)	APPROVED <u>VALUE</u>	SELLER'S PURCHASE <u>PRICE</u>	TRUSTEES' PURCHASE <u>PRICE</u>	OPTION <u>DATE</u>
Adams Alapaha	858	\$515,000*	\$515,000	**	\$463,500***	120 days after BOT approval

*Fee value was determined to be \$1,802,000

**Property was assembled over many years by the Adams Family

***The purchase price for the conservation easement is \$540.21 per acre

STAFF REMARKS:

This acquisition was negotiated by FDACS/FFS under its RFLPP. If approved, this will be the forty-seventh perpetual conservation easement proposed for acquisition, with a total of approximately 53,686 acres preserved under the RFLPP. The Adams Alapaha project is ranked in Tier One on the 2018 RFLPP Acquisition List.

Item 22, cont.

PROPERTY DESCRIPTION:

Adams Alapaha Farm is a cow-calf operation with 338 acres in improved pasture, 180 acres in slash pine plantation, and 12 acres of black oil sunflowers in operation. The plantations are primarily managed for long-term timber production, but also support hunting and limited grazing. The remainder of the property is primarily in natural woodlands and ponds that are managed for wildlife. Some timber is periodically harvested from these natural areas.

Adams family ancestors settled in this area of Hamilton County shortly after the Civil War. The subject property has been in Adams family for nearly a hundred years. During the time of Clifford Adam's grandfather and father, this farm was a plantation with forty families of sharecroppers. The main crops were cotton and tobacco. After Clifford Adams father's untimely death in 1955 the farm has been mostly dedicated to timber and cattle management.

The majority of the property lies atop the Cody Scarp in the Alapaha River basin and descends in a gentle roll to the south toward the Suwannee River. Elevations reach 140 feet above mean sea level in the northeastern portion of the property, then plunge to about fifty feet along the Alapaha River. The river forms the northwesterly property boundary for about 1.5 miles. At least ten karst depressions punctuate the upland, which support depression marshes, sinkholes, and sinkhole lakes. The floodplain forest/swamp along the river below the bluff is largely intact, with the bluff itself supporting upland hardwood forest.

Pastures and slash pine plantations are interspersed with mixed hardwood stands that often shelter a karst feature. A number of these features are open ponds with wide grassy margins, while others are small gum ponds or sinks. The wetland features are particularly attractive to wildlife. Healthy populations of gopher tortoises were witnessed during the RFLPP site visit. All other common wildlife species of rural north Florida should be expected to occur on this property. Rare species known to occur on the property included gopher tortoises, Florida panther, black bear, and indigo snake.

Due to the proximity to the Alapaha River, one rare mussel and two rare turtle species have been documented along the property's border. Other rare aquatic species, including rare fish, may also occur on the property. Depressional wetlands provide potential habitat for common, and perhaps some rare, species of birds and amphibians.

PROHIBITED USES:

- Dumping of biodegradable or nonbiodegradable, toxic, unsightly, offensive or hazardous substances, trash or garbage, wastes, abandoned vehicles, appliances, machinery, toxic wastes or substances, pollutants or contaminants, or similar material.
- The mining, excavation of surface or subsurface materials, the exploration for and extraction of oil, gas, minerals, dolostone, peat, muck, marl, limestone, limerock, kaolin, fuller's earth, phosphate, common clays, gravel, shell, sand and similar substances either directly or indirectly by Grantor or on Grantor's behalf.

Item 22, cont.

- Activities that affect the hydrology of the land or that detrimentally affect water conservation, erosion control, soil conservation, or fish and wildlife habitat, etc.
- Planting of nuisance exotic or non-native plants as listed by the Exotic Pest Plant Council (EPPC) or its successor. The Grantor shall, to the extent practical, control and prevent the spread of nuisance exotics or non-native plants on the Property.
- Concentrated and confined animal feed lot operations as defined by the United States Department of Agriculture.
- New construction or placing of temporary or permanent buildings, mobile homes or other structures in, on or above the ground of the Property except as may be permitted hereinafter, or as necessary by Grantor for maintenance or normal operations of the Property or during emergency situations or as may otherwise be specifically provided for in the Easement.
- Construction or placing of roads, billboards or other advertising, utilities, or structures, except those structures and unpaved roads necessary for the agricultural operations on the land or structures necessary for other activities allowed under the Easement, and except for linear facilities described in section 704.06(11), F.S. Grantee may erect and maintain signs designating the Property as land under the protection of Grantee.
- Fertilizer use for agriculture activities shall be in accordance with agricultural Best Management Practices (BMPs) recommended by the Natural Resources Conservation Service or FDACS, whichever is more stringent, as those BMPs may be amended from time to time. No agricultural activities shall occur within a 100-foot buffer around sinkholes and other karst features that are connected to spring conduits, except as provided in the applicable BMPs.
- Actions or activities that may reasonably be expected to adversely affect state or federally-listed species.
- Any subdivision of the Property, unless specifically stated in this Easement.
- Commercial water wells on the Property.
- Harvesting of cypress trees in the designated Significant Natural Areas (SNAs).
- Mitigation banks pursuant to Section 373.4135, et. seq., F.S.
- Construction or improvements in any SNA or conversion of SNAs to more improved areas or more intense uses. Any use of the Property which would impair, adversely impact, or destroy the SNAs, including a change to more intensive agricultural practices, is also prohibited.
- Activities detrimental to the preservation of historical, architectural, archaeological, or cultural resources on the Property.

Item 22, cont.

- Conversion of forested areas to non-forested areas as shown in the Baseline Documentation Report within the SNAs.

OWNER'S RIGHTS:

- Grantor has, and shall be deemed hereby to have retained, the underlying fee simple absolute title in the Property.
- The right to conduct silvicultural and agricultural operations on the Property; provided, however, that prior to any timbering in an SNA, Grantor shall consult with Grantee concerning methods to minimize damage.
- The right to conduct prescribed burning on the Property; provided, however, that Grantor shall obtain and comply with a prescribed fire authorization from the FDACS' FFS or its successor agency.
- The right to mortgage the Property; provided, however, that the Mortgagee's lien shall be inferior to and lower in priority than this Easement.
- The right to contest tax appraisals, assessments, taxes and other charges on the Property.
- The right to continue to use, maintain, repair, and reconstruct, all existing buildings, barns, animal pens, outbuildings, fences, roads, ponds, wells, utilities, drainage ditches, docks, and such other facilities on the Property as depicted in the BDR.
- The right to sell, devise or otherwise transfer ownership of the Property to a third party. This right, however, does not include the right to sell the remaining property rights on the Property for the purposes of a conservation easement or other restriction that would divest the Property of its use under the terms and conditions of the Easement.
- The right to exclusive use of the improvements on the Property.
- Grantor shall obtain and comply with all permits for management of stormwater, for water wells and consumptive uses as may be required by the water management district or any successor agency having jurisdiction over those activities.
- The right to construct, after giving notice to Grantee, buildings or other structures incident to agricultural uses carried on in accordance with sound agricultural practices. Such buildings shall not be used as residences.
- Nothing shall prohibit Grantor from establishing (by survey, fencing or marking) and maintaining property lines around the perimeter of the Property to protect the Property from trespassing and to assist Grantor in the management of the Property in accordance with the Easement.

Item 22, cont.

- The right to observe, maintain, photograph, introduce, and stock native fish or wildlife on the Property, to use the Property for hiking and horseback riding. Grantor reserves, and shall continue to own, the hunting and fishing rights on or related to the Property and Grantor may lease and sell privileges of such rights.
- Grantor reserves the right to subdivide the Property into not more than two individual parcels, of not less than 300 acres each. Grantor shall provide a legal description and survey at the time of the subdivision. There shall be no further subdivision of the Property which is the subject of this Agreement. After the subdivision, each of the resulting parcels will contain a Building Envelope for residential purposes.
- Grantor reserves two Building Envelopes around the existing residences and the right, after giving notice to Grantee, to develop within each envelope up to an additional 10,000 square feet of impervious surfaces for residential purposes. The Building Envelopes will not exceed 5 contiguous acres and are limited to one single family residence and ancillary structures within each envelope. Impervious surfaces are defined as material that does not allow water to percolate into the soil on the Property. This includes, but is not limited to, residential buildings, residential support buildings with or without flooring, paved areas, and any other surfaces that are covered by asphalt, concrete, or roofs, excluding agricultural buildings. Any such development may not be constructed within the SNAs. The location of the Building Envelopes is shown on Exhibit D, attached herein.
- The right to install connections to normal utility systems, such as electric, cable, water and sewer, and telephone. If a connection to a sewer system is not available, this right shall include the right to install a septic system. The granting of easements or rights-of-way for power lines, gas lines, sewer lines, waterlines, telecommunications towers, and wind farms is prohibited. Notwithstanding this prohibition the Grantee may grant or modify easements for utility connections necessary to serve the permitted uses of the Property that are consistent with the Easement Purposes. Existing utilities may be replaced or repaired at their current location.

ENCUMBRANCES:

There are no known encumbrances on the property that adversely affect marketability or the ability to enforce the rights granted under the easement.

MORTGAGES AND LIENS:

All mortgages and liens will be satisfied or subordinated at the time of closing.

On June 22, 1999, the Board of Trustees approved a staff recommendation to delegate to the Department of Environmental Protection (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 these and any other title issues that arise prior to closing.

Item 22, cont.

CLOSING INFORMATION:

A title insurance commitment and an environmental site assessment of the property will be provided by FFS prior to closing.

EASEMENT MONITOR:

This perpetual conservation easement will be monitored by the FFS.

COMPREHENSIVE PLAN:

This acquisition is consistent with section 187.201(22), F.S., the Agriculture Section of the State Comprehensive Plan.

(See Attachment 22, Pages 1-73)

RECOMMEND APPROVAL