

**AGENDA
BOARD OF TRUSTEES
DEPARTMENT OF AGRICULTURE & CONSUMER SERVICES
MARCH 1, 2005**

Item 1 Minutes

Submittal of Minutes from the February 1, 2005 Cabinet Meeting.

(See Attachment 1, Pages 1-5)

RECOMMEND APPROVAL

Item 2 Term Adjustment of 17 Five-Year Aquaculture Leases to Ten-Year Leases

REQUEST: Consideration to adjust the terms of 17 aquaculture leases from five-year terms to ten-year terms.

COUNTIES: Collier and Monroe

APPLICANTS: Ted Naftal, Jr., Matt Finn, Billie A. Weeks, Jr., Robert W. Robinson, Robert D. Robinson, Michael Thompson, Benjamin Hilgendorf, Eric G. Buckley, Gary D. Weeks, Gerald Nicks, CD's Clams and Fishing, Inc., Roy Kibbe, Kenneth E. Moss, Kenneth E. Moss, Jr., Collier County and Florida Gulf Coast University, and Douglas Hattendorff.

LOCATION: Two tracts of sovereignty submerged lands in Gullivan Bay, Gulf of Mexico near the town of Goodland, Collier County, Florida; and a one-acre tract of sovereignty submerged land south of Marathon Key in the Atlantic Ocean, Monroe County, Florida.

CONSIDERATION: The annual rental fee and surcharge for the 15 aquaculture leases in Collier County was established at a base annual fee of \$15.95 per acre or fraction thereof, and an annual surcharge of \$10.00 per acre or fraction thereof. The annual rental fee and surcharge for the single live rock lease in Monroe County was established at a base annual fee of \$31.90 per acre or fraction thereof, and an annual surcharge of \$10.00 per acre or fraction thereof. A waiver was approved for two parcels to be used for educational and experimental purposes.

STAFF REMARKS: On November 23, the Board of Trustees approved staff's request to designate approximately 94 acres of sovereignty submerged lands for aquacultural use in two tracts of submerged lands in Collier County. The tracts were identified as the Cape Romano

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Aquaculture Use Area and the White Horse Key Aquaculture Use Area. Each aquaculture use area includes 16 two-acre aquaculture lease parcels which were allotted to individual applicants. The Board of Trustees authorized the issuance of 15 individual four-acre aquaculture leases and 1 four-acre aquaculture lease for educational use in Collier County. Additionally, the Board of Trustees authorized the issuance of one individual one-acre live rock aquaculture lease in Monroe County.

During consideration of the request, the Board of Trustees raised questions regarding the annual lease fees for aquaculture leases and the amount of revenues generated by the lease fees. The Board of Trustees directed staff to conduct a review of the lease fee structure and to present its findings. In response to the Board of Trustees' direction, staff completed a review of current lease fees and compared current aquaculture lease fees with other lease fees assessed by Florida and other states for comparable uses. Staff presented its findings to the Board of Trustees on February 1, 2005. Results of the review indicated that aquaculture leases were within the range found for various uses, including upland agricultural activities, marinas, and comparable aquacultural activities.

Staff's review also showed that revenues from aquaculture leases did not produce sufficient funds to pay for the aquaculture leasing program within the Department's Division of Aquaculture. In response to the Board of Trustees' direction, staff recommended that lease fees be increased to provide additional revenues to cover anticipated program costs. On February 1, 2005, the Board of Trustees approved staff's request to establish a new rate for annual rental fees for aquaculture leases, beginning in 2007.

During the initial discussion of aquaculture lease fees on November 23, 2004, the Board of Trustees approved the motion to authorize the aquaculture leases in Collier County, with the caveat that these leases will be brought back before the Board of Trustees in five years for review. This action was taken to ensure that any pending action related to increasing lease fees could be applied to these leases. Consequently, these 15 lease agreements contain a provision for a five-year lease term. Historically, the Board of Trustees has approved aquaculture leases with ten-year terms. The ten-year term was established, with agreement from the aquaculture industry, as a period of time sufficient for farmers to implement and carryout profitable business plans. Subsequently, the ten-year term has become the standard provision in aquaculture leases used for growing hard clams and live rock. The applicants listed above applied for leases with ten-year terms, but current direction from the Board of Trustees will limit the term of their lease to five years. These potential leaseholders have requested that their lease terms be modified to

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reflect the standard terms contained in other lease agreements for similar leases located throughout the state. This request to modify the lease term in these leases will make the lease agreements similar to other aquaculture leases issued for the same purposes.

A provision is included in these lease agreements that the lessee is bound by present and future enactments in Florida Law, Florida Statutes, and Florida Administrative Code. Additionally, this provision will be amended to include present and future enactments adopted by the Board of Trustees. Any future changes in the annual rental fees will be implemented pursuant to this provision. Accordingly, annual rental fees for these leases will be adjusted in 2007 and rate changes will be applied in a consistent manner to all current and valid aquaculture leases.

(See Attachment 2, Pages 1-15)

RECOMMEND APPROVAL