

AGENDA
BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
MAY 1, 2007
Substitute Page

Substitute Item 1 Alachua County Release of Deed Restrictions

REQUEST: Consideration of (1) a release of the 102.09-acre parcel conveyed to the Board of County Commissioners of Alachua County, Florida under Board of Trustees' Deed Number 25315 from deed restrictions, the violation of which, at the option of the Board of Trustees, shall cause the title to said parcel to revert to the Board of Trustees; and (2) acceptance of new covenants, conditions and restrictions that Alachua County has agreed to place on the proposed 102.09-acre fairground parcel for the benefit of the Board of Trustees.

COUNTY: Alachua
Deed Number 25315

APPLICANT: Alachua County (County)

LOCATION: Sections 13 and 26, Township 09 South, Range 20 East

CONSIDERATION: Placement of deed restrictions on the proposed 102.09-acre fairground site which has an appraised value that is \$30,000 more than the value of the current fairground property.

STAFF REMARKS: On June 20, 1972, the Board of Trustees conveyed a 102.09-acre parcel to the County, by Board of Trustees' Deed Number 25315. The deed contains restrictions that require that the property be used for a county agricultural center and county fairground, and construction of facilities for these purposes, and prohibits commercial uses and any use that is inconsistent with a county agricultural center and county fairground, and a reverter in favor of the Board of Trustees. There is a second deed restriction which provides the Florida Department of Health and Rehabilitative Services the right to enter the current fairgrounds to harvest any timber related to construction of the current fairground facilities which had to commence within three years from the date of this deed (June 20, 1972). This deed restriction is no longer applicable because the facilities have already been constructed.

The County is requesting the Board of Trustees release the restrictions and reverter from the current fairground site so that it may redevelop this property with business and commercial uses. In the spring of 2003, both the County and the Gainesville City Commission (City) adopted The Plan East Gainesville Study and its recommendations, which included that the current fairground site be redeveloped with business and commercial uses because of its strategic location within the study area and its close proximity to the Gainesville Regional Airport. The County is committed to restore approximately 30 acres of wetlands on the current fairground site, which will remain under the current land use and zoning of conservation.

In exchange for the Board of Trustees' release, the County will place a Declaration of Covenants, Conditions and Restrictions for benefit to the Board of Trustees on the proposed parcel. These restrictions would expand the on-site activities from a county agricultural center and fairgrounds to include community-based or government-oriented activities. Examples of such activities includes emergency/disaster shelters, community meetings, trade shows,

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entertainment, school-based education, sporting events, youth activities, business and economic development, and cultural events. Any community based or government-oriented activity which is considered commercial in nature, may not be conducted on the property for a period greater than six consecutive months. Any other commercial uses and gambling are prohibited. If the County violates any of these restrictions, the County, at the sole option of Board of Trustees, shall convey all of its right, title and interest in and to the property to the Board of Trustees for no consideration.

The proposed relocation of the current fairgrounds property has received broad community support including support from both the City and the University of Florida. Over the course of the two-year process concerning the evaluation of possible sites for a new fairground, numerous meetings were conducted with area residents, community groups, fairgrounds stakeholders, various governmental entities, and elected and appointed officials. The results of all of these meetings and activities to date have been extremely positive with various groups and entities even wishing to assist in the facilitation of the project.

Based on the following, Department of Environmental Protection (DEP) staff recommends releasing the current fairground site from the restrictions and reverter in Board of Trustees' Deed Number 25315:

- the County incurred the cost of purchasing lands for the proposed fairground site;
- in exchange for releasing the current fairground site from the restrictions and reverter in Board of Trustees' Deed Number 25315, the County will place a Declaration of Covenants, Conditions and Restrictions as described above for the benefit of the Board of Trustees on the proposed fairground site which is the same acreage as the current fairground site (102.09-acres) and with an appraised value which is \$30,000 greater in value; and
- as concluded by a two-year study known as the Alachua County Fairgrounds Analysis, Phase 2, the proposed fairground site is the best location for a new Alachua County Fairgrounds. Factors contributing to its ideal suitability include adequate land area, transportation/public access and visibility. Specifically, the property easily accommodates all of the proposed uses and activities as contained in the County's approved Fairgrounds Master Plan; has direct access to a four-lane, divided State Highway (SR 24) along its 2,200 foot-long frontage; is about 10,000 feet north of the current fairgrounds; and is in close proximity to both the geographic and population center of the County. Finally, the development of a new fairground on this site will facilitate the redevelopment of the current fairgrounds in accordance with the recommendations of The Plan East Gainesville Study as approved by both the City and the County.

Ms. Susan Waller, MAI, valued the current fairground site at \$2,340,000, as of January 18, 2007. The County has already acquired 148 acres, of which a 102.09-acre parcel will be designated for the new fairground site. Ms. Waller also valued the proposed fairground site at \$2,370,000, as of January 18, 2007. Both properties were appraised at the highest and best use without deed

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restrictions and reverter. A review of these appraisals was conducted by Ms. Charlene Schlemmer, MAI, SRA, on February 15, 2007, and she indicates that the appraisal conforms to appraisal standards and approves the reports.

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

(See Attachment 1, Pages 1-35)

RECOMMEND APPROVAL

Substitute Item 2 City of Stuart Recommended Consolidated Intent

REQUEST: Consideration of an application for (1) a 25-year sovereignty submerged lands lease containing 22,540 square feet, more or less, for a staging area associated with a public dry storage facility (Northern Facility); (2) a modification of an existing 5-year sovereignty submerged lands lease to (a) extend the term to 25 years; and (b) increase the preempted area from 28,809 square feet to 562,666 square feet, more or less, for a public marina (Southern Facility); and (3) authorization for the severance of 3,521 cubic yards of sovereignty material.

COUNTY: Martin
 Northern Lease No. 430340696
 Southern Lease No. 430034296
 File No. 43-0234909-001

APPLICANT: City of Stuart (City)

LOCATION: Section 05, Township 38 South, Range 41 East, in St. Lucie River, Class III waters, within the local jurisdiction of city of Stuart
Aquatic Preserve: No
Outstanding Florida Waters: No
Designated Manatee County: Yes, with an approved manatee protection plan
Manatee Aggregation Area: Yes
Manatee Protection Speed Zone: Yes (slow speed year-round)

CONSIDERATION: Northern Facility: \$6,582.00, representing (1) \$3,024.80 as the initial annual lease fee computed at the base rate of \$0.14126 per square foot, discounted 30 percent because 90 percent of the slips are open to the public for rent on a first-come, first-served basis, and including the initial 25 percent surcharge payment; (2) \$557.20 as the annual lease fee for extended term lease calculated as the annual lease fee times \$0.25; and (3) \$3,000.00 for the severance of sovereignty material computed at \$1.25 per cubic yard pursuant to section 18-21.011(3)(a)3, F.A.C.

Substitute Item 2, cont.

Southern Facility: \$89,801.34, representing (1) \$74,490.70 as the initial lease fee computed at the base rate of \$0.14126 per square foot, discounted 30 percent because 90 percent of the slips are open to the public for rent on a first-come, first-served basis, and including the initial 25 percent surcharge payment for the additional area; (2) \$13,909.39 as the annual lease fee for extended term lease calculated as the annual lease fee times \$0.25; and (3) \$1,401.25 for the severance of sovereignty material computed at \$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 fees maybe adjusted based on six percent of the annual income pursuant to section 18-21.011(1)(a) 1, F.A.C.

STAFF REMARKS: In accordance with rules adopted pursuant to sections 373.427(2) and 253.77(2), F.S., the attached "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. If the Board of Trustees approves the request to use sovereignty submerged lands and the activity also qualifies for a permit, the Department of Environmental Protection (DEP) will issue a "Consolidated Notice of Intent to Issue" that will contain general and specific conditions. If the Board of Trustees denies the use of sovereignty submerged lands, whether or not the activity qualifies for a permit, DEP will issue a "Consolidated Notice of Denial".

Northern Facility:

The City proposes to construct a staging area with 14 temporary wet slips to be used in conjunction with the proposed upland 120-slip dry storage facility. The staging area will preempt 22,540 square feet of sovereignty submerged lands. This facility will accommodate recreational vessels ranging in length from 45 to 50 feet, with drafts ranging from 3 to 5 feet.

The City is also proposing to: (1) dredge 2,400 cubic yards of sovereignty material to a depth of -6.5 feet mean low water (MLW) to create an ingress/egress area for access and the temporary mooring of vessels associated with the upland storage facility. The spoil material will be temporarily stored in an approved upland spoil site until the potential for reuse is determined; (2) excavate approximately 1,000 cubic yards of upland material to -6.5 feet MLW; and (3) install a 345-foot-long seawall prior to the commencement of excavation and back-filling activities.

Southern Facility:

The City is proposing to replace an existing 2-slip docking facility, presently used in conjunction with an upland dockmasters office, parking lot, and nearby associated mooring field, by constructing a 198-slip marina to be used in conjunction with an upland marine retail office, restaurant, and parking lot. The existing sovereignty submerged lands lease approved by DEP, under delegation of authority, on October 20, 2003 authorizes the preemption of 28,809 square

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feet of sovereignty submerged lands. The proposed addition is 533,857 square feet, for a new total of 562,666 square feet. This facility will accommodate recreational vessels ranging in length from 45 to 100 feet, with drafts ranging from 3 to 7 feet.

The City's existing mooring field directly east of the Southern Facility will be reduced from 86 moorings to 69 moorings to provide the area needed for the proposed marina construction. The reduction of 17 moorings reduces the mooring field by 445,183 square feet (10.22 acres) more or less. The remaining 69 moorings (containing 26.38 acres) will maintain the right to use all of the upland amenities at the new public facility.

The City is also proposing to dredge 1,121 cubic yards of sovereignty material to a depth of -7.9 feet mean low water (MLW) to increase maneuverability near the existing seawall. No submerged resources exist at the site. The spoil material will be temporarily stored in an approved upland spoil site until the potential for reuse is determined.

Both facilities will be operated on an open to the public on a first-come, first-serve basis, with no longer than one-year rental terms. This requirement has been included as a special lease condition in both of the proposed leases.

Severance fees for the spoil material from both facilities shall be paid in full prior to issuance of the ERP permit and the lease documents and pursuant to section 18-21.011, F.A.C., however, if it is determined that the spoil material has no economic value, it must be disposed of at an approved landfill.

The City will be the lessee at the Northern Facility, and a recorded Memorandum of Lease exists with the managing entity, SDG Group, LLC. The City will remain the lessee at the Southern Facility, recorded Memorandum of Lease exists with the managing entity, Huizenga Holdings, Inc.

DEP's environmental resource permit authorizes sewage pumpout facilities and fueling facilities at the Southern Facility. Liveaboards will not be permitted and permanent mooring will not be allowed at the Northern Facility. Liveaboards will be allowed at the Southern Facility. There are no shoreline or submerged resources including seagrasses at either of the project sites. The recommendations of the Florida Fish and Wildlife Conservation Commission (FWCC) regarding the protection of manatees have been addressed in the permit and included as a special lease condition. Martin County is a designated manatee county with an approved manatee protection plan. FWC has stated that the proposed project is consistent with the plan.

The City has requested that vessels meeting the definition of "liveaboard" be allowed at the Southern Facility. All slips at the marina with the exception of the day dockage and slips reserved for law enforcement officials will be available for liveaboard use. The vessels expected to use the marina are considered "transient vessels" which typically are navigating through the area. The slip rental term for liveaboards will not exceed 6 months for any rental agreement and those vessels expected to meet the liveaboard definition will be specifically identified as such on their dockage agreements. The marina will be closely supervised and all who dock will be

Substitute Item 2, cont.

advised of the rules and regulations set forth by the marina. The rules will expressly prohibit establishing permanent residency, moving from slip to slip to allow for a longer stay, and release of wastewater other than through the authorized pumpout facilities.

Further, a special lease condition will require that the rules and regulations for the marina will provide notice of the potential penalties for unauthorized discharge of waste water and penalties associated with doing so, and identify the location and procedures for use of the pumpout facilities. These documents will be signed by the vessel owner or authorized Captain and will be maintained as part of the marina's records for compliance purposes. Additionally, the prominent display of signs identifying the rules and regulations along with communication with Dockmaster staff will provide a self-policing mechanism which will compliment the signed agreements. The signs will also indicate that violators will be subject to penalties and enforcement actions referencing existing City ordinances, as well as Florida Statutes and Florida Administrative Codes.

Water quality samples in the St. Lucie River indicate levels of coliform bacteria, in excess of state water quality standards. To date, investigations conducted on the River have not been successful in identifying the source(s) of the coliform bacteria. When a waterbody does not meet water quality standards, applicants for projects must demonstrate that the proposed activity will not contribute to the existing violation pursuant to section 373.414(1)(b), F.S. In order to provide assurance that the new facilities will not contribute to the fecal coliform levels, the City has:

- agreed to enforce a special lease condition prohibiting overboard discharge and inform all slip occupants of the requirement to use the pumpout facilities located on the uplands;
- agreed to install educational outreach and awareness signage in appropriate locations at both facilities associated with pump-out procedures to educate citizens on the environmental impacts caused by illegal dumping of sewage within the St. Lucie River. These signs shall educate citizens on how to properly dispose of marine related sewage and information detailing specific contact information in the event illegal activities is observed;
- provided information on its Watershed Protection Program (WPP) that was initiated in 2000. The City secured funding for more than \$13 million to identify and improve the quality of all watersheds within City limits contributing to the St. Lucie River. Watershed improvement activities have included land acquisition, wetland restoration, stormwater control modifications including the proposed installation of 32 baffle boxes and educational outreach awareness programs; and
- established a streets and stormwater page on its website (www.cityofstuart.com). This page provides educational information about the impact of stormwater run-off into waterways and provides a 24-hour hotline where citizens can report improper pollutant discharges.

Substitute Item 2, cont.

A local government comprehensive plan has been adopted for this area pursuant to section 163.3167, F.S. The Department of Community Affairs (DCA) determined that the plan was in compliance. The proposed action is consistent with the plan according to a letter received from the City of Stuart.

(See Attachment 2, Pages 1-37)

**RECOMMEND APPROVAL SUBJECT TO THE SPECIAL APPROVAL CONDITION,
THE SPECIAL LEASE CONDITIONS, AND PAYMENT OF \$96,383.34**

Substitute Item 3 CNRI-Cannonsport LLC, Recommended Consolidated Intent

REQUEST: Consideration of an application for (1) a modification of an existing ten-year sovereignty submerged lands lease to (a) combine two existing leases into one lease; (b) decrease the term from ten years to five years; (c) change the use from an "open to the public" commercial marina to a mixed use of private residential multi-family docking facility and a commercial marina; (d) increase the preempted area from 57,600 square feet to 119,972 square feet; and (e) remove special lease condition 31 regarding the 90 percent open to the public requirement; and (2) authorization for the severance of approximately 3,350 cubic yards of sovereignty material.

COUNTY: Palm Beach
Lease No. 500026446
File No. 50-0139450-002

APPLICANT: CNRI-Cannonsport, LLC
(d/b/a Cannonsport Marina)

LOCATION: Section 27, Township 42 South, Range 43 East, in Lake Worth Lagoon, Class III waters, within the local jurisdiction of the town of Palm Beach Shores
Aquatic Preserve: No
Outstanding Florida Waters: No
Designated Manatee County: Yes, without an approved manatee protection plan
Manatee Aggregation Area: Yes
Manatee Protection Speed Zone: Yes, slow speed year-round

CONSIDERATION: \$26,515.92, representing (1) \$18,978.42 as the initial annual lease fee computed at the base rate of \$0.14126 per square foot, and including the 25 percent surcharge payment for the additional area; and (2) \$7,537.50 for the severance of sovereignty material computed as the rate of \$2.25 per cubic yard pursuant to section 18-21.011(3)(a)2, F.A.C., which has already been paid. 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 may be adjusted based on six percent of the annual income pursuant to section 18-21.011(1)(a)1, F.A.C.

Substitute Item 3, cont.

STAFF REMARKS: In accordance with rules adopted pursuant to sections 373.427(2) and 253.77(2), F.S., the attached "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. If the Board of Trustees approves the request to use sovereignty submerged lands and the activity also qualifies for a permit, the Department of Environmental Protection (DEP) will issue a "Consolidated Notice of Intent to Issue" that will contain general and specific conditions. If the Board of Trustees denies the use of sovereignty submerged lands, whether or not the activity qualifies for a permit, DEP will issue a "Consolidated Notice of Denial."

The applicant is requesting to expand an existing 30-slip open to the public marina to a mixed-use facility containing 54 slips and increase the preempted area from 57,600 square feet to 119,972 square feet. The request includes dredging of approximately 3,350 cubic yards of sovereignty material. The uplands are currently being redeveloped with 36 condominium units and a marina office. The uplands were previously four separate parcels (marina facility, motel and two single-family lots), which have been rezoned as one mixed-use parcel. This redevelopment of the uplands was authorized under a separate stormwater permit (No. 50-0139450-003) issued by DEP on January 24, 2006.

The applicant is the lessee for two adjacent leases. The larger of the two leases (500026446) was first brought under lease by DEP, under delegation of authority, on January 1, 1998 as a registered grandfathered structure (GSR No. 500047). The lease authorized an open to the public, commercial docking facility in conjunction with an upland marina facility containing 57,600 square feet of sovereignty lands. The smaller lease (500011086) consists of a small L-shaped dock containing 12 slips for a motel, which was authorized under delegation of authority in 1992. Additionally, after the applicant purchased the two adjacent single-family lots, a temporary use agreement (TUA) was executed and recorded on September 28 2006 and associated lease fees were collected. The TUA authorized two docks associated with the previously existing single-family homes, preempting 13,838 square feet. The integration of the two lease areas and the docking facilities associated with the other acquired parcels will result in a net increase of 13 slips made available to the public.

The larger lease (500026446) for the open to the public marina facility currently consists of a T-dock containing 30 mooring slips. The smaller lease (500011086) consists of a small L-shaped dock containing 12 slips for a motel. The requested expansion would result in the cancellation of the smaller lease (500011086) and the removal of the dock, the removal of two small single-family docks to the north of the existing T-dock (12 slips total), and the construction of a new T-dock, resulting in the expansion of the existing preempted area from 57,600 square feet to approximately 119,972 square feet, for a total increase of 62,372 square feet. A Disclaimer from the Board of Trustees (No. 40505) exists for the footprint of the large T-dock and has been excluded from the proposed new lease area.

Substitute Item 3, cont.

The applicant is requesting to remove special lease condition 31, which requires that a minimum of 90 percent of the slips at the facility be made available for rent to the public on a "first-come, first-served" basis. The larger lease (5000026446) was originally 90 percent open to the public but the smaller lease (500011086) did not have the 90 percent condition in the lease document. Of the 54 slips, 11 slips will be used exclusively for private multi-family use by the residents of the adjacent condominium. The proposed preempted area for the 11 slips associated with private multi-family use, in conjunction with the upland condo development, is 16,256 square feet, which meets the 40 to 1 criteria, using 419 linear feet of shoreline. The remaining 43 slips (80 percent) will be available for use by the general public on a "first-come, first-served" basis. The facility no longer qualifies for the standard ten-year lease term; therefore, the term will be reduced to five years. The existing marina facility can accommodate vessels over 125 feet in length with 7-foot draft. The majority of the vessels range from 35 to 65 feet in length. The expansion will accommodate vessels of similar size.

The applicant will retain ownership and control of the common areas on the parcel including two access driveways and associated parking lots. The applicant will provide a minimum of one parking space per slip. The marina store will be located on the ground floor of the northwest condominium building.

The applicant is also proposing to dredge 3,350 cubic yards of sovereignty material to deepen the marina basin along the seawall to reach depths of -8.0 feet mean low water. No submerged resources exist at the site. The spoil material will be temporarily stored in an approved upland spoil site until the potential for reuse is determined. Severance fees have been paid.

A lease modification was approved by DEP, under delegation of authority, on March 30, 2005 to reconfigure the existing marina after it was destroyed in the hurricane events of 2004, with no change in the total preemption of 57, 600 square feet.

The project meets the setback requirements in accordance with chapter 18-21, F.A.C.

The current lease authorizes the existing fueling facilities and a sewage pumpout facility, and it does not authorize liveaboards.

No submerged resources were observed in the vicinity of the proposed expansion upon DEP's site inspection on September 16, 2005, therefore there should be no impacts to submerged resources as a result of the expansion and proposed dredge. Because of its vicinity to the Lake Worth Inlet, the marina is subject to high velocity currents and recruitment of benthic resources is unlikely. Follow-up inspections, conducted on February 21, 2007 and April 17, 2007, confirmed there are no submerged resources in the proposed expansion area. The recommendations of the Florida Fish and Wildlife Conservation Commission (FWCC) regarding the protection of manatees have been addressed in the permit and/or included as special lease conditions. Palm Beach County is a designated manatee county without an approved manatee protection plan, but is deemed to be making significant progress by FWCC.

Substitute Item 3, cont.

The modified lease request was not required to be noticed pursuant to section 253.115(5)(i), F.S., however, 27 property owners were specifically noticed and one letter of concern was received by the neighbor directly to the north, James Collins. His concerns included riparian rights, integrity of his seawall after dredging and navigation along the navigational channel. DEP responded in writing to Mr. Collins and also met with him on January 18, 2007 to further discuss the project. Mr. Collins indicated at that time that he was satisfied with the results of the meeting.

A local government comprehensive plan has been adopted for this area pursuant to section 163.3167, F.S.; however, the Department of Community Affairs (DCA) determined that the plan was not in compliance. In accordance with the compliance agreement between DCA and the local government, an amendment has been adopted which brought the plan in compliance. The proposed action is consistent with the adopted plan as amended according to a letter received from the town of Palm Beach Shores on February 28, 2007.

(See Attachment 3, Pages 1-27)

RECOMMEND APPROVAL SUBJECT TO THE SPECIAL LEASE CONDITIONS AND PAYMENT OF \$26,515.92