

AGENDA
BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
FEBRUARY 26, 2008

Item 1 Chapters 18-1, 18-2, 18-21 and 18-24, FAC, Proposed Rule Amendments Adoption

REQUEST: Adoption of proposed rule amendments to chapters 18-1, 18-2, 18-21 and 18-24, F.A.C., that will (1) update and clarify appraisal procurement procedures; (2) modify appraisal requirements for private easements; (3) codify procedures for amending boundaries of Florida Forever projects; and (4) clarify and update other rule provisions to conform with current statutes. This proposed rulemaking is not addressing any consideration of increasing fees.

COUNTY: Statewide

APPLICANT: Department of Environmental Protection (DEP)

STAFF REMARKS: On October 12, 2005, DEP's Division of State Lands (DSL) staff notified the Board of Trustees that it was proposing to enter into rulemaking to amend chapters 18-1, 18-2, 18-21 and 18-24, F.A.C., to address issues raised in a June 2005 operational audit by the Auditor General's office, as well as to update and clarify the implementation of statutes and policies adopted by the Board of Trustees for land acquisition, disposition, and management.

ARC Rule

DSL staff conducted a workshop on October 13, 2006, for proposed revisions to chapters 18-2 and 18-24, F.A.C., to address the Acquisition and Restoration Council's (ARC) role in management plan and land use reviews and in accepting proposals to amend a Florida Forever project boundary. Staff revised the draft rule language based on public input. At a public meeting on December 7, 2006, ARC approved the recommended rule revisions for submittal to the Board of Trustees. On April 17, 2007, the Board of Trustees approved the Notice of Proposed Rulemaking. The Notices of Proposed Rulemaking were published in the Florida Administrative Weekly (F.A.W.) on June 1, 2007. In response to comments from the Joint Administrative Procedures Committee (JAPC), a Notice of Change was published for chapter 18-24, F.A.C., on December 7, 2007 that, (1) clarified the process for approval of boundary amendments; (2) eliminated arbitrary language; (3) conformed all sections to statute; and (4) eliminated language already in statute.

Appraisal/Management Rule

DSL staff conducted a workshop on January 26, 2007, for proposed revisions to chapters 18-1 and 18-21, F.A.C., and additional changes to chapter 18-2, F.A.C., to address the 2005 operational audit and update and clarify existing rules. No public comments were made at the workshop related to the proposed changes. On June 12, 2007, the Board of Trustees approved Notices of Proposed Rulemaking for the amendments. The Notices of Proposed Rulemaking were published in the F.A.W. on July 20, 2007.

In response to comments from JAPC, a Notice of Change was published on December 7, 2007, for chapters 18-1 and 18-2, F.A.C., and on December 14, 2007, for chapter 18-21, F.A.C., to incorporate grammatical and technical changes, and to address when fees for appraisal services would be refunded. DSL also deleted section 253.025, F.S., from the history notes as one of the

Item 1, cont.

laws implementing rule 18-1.007. Section 253.025(6)(b), F.S., states that DSL (rather than the Board of Trustees) shall adopt rules for selection of individual appraisers. JAPC attorneys disagreed that the intent was for DSL to adopt them on behalf of the Board of Trustees. DEP is seeking legislation in this legislative session to change the section to substitute the Board of Trustees for DSL. If DEP does not get its legislative change in the 2008 session, JAPC advised that DEP would have to agree that DSL would adopt a separate rule for appraiser selection for nonconservation lands.

None of the rules have been challenged; therefore, upon final adoption by the Board of Trustees the rules will become effective 20 days after filing with the Department of State. The proposed revisions will accomplish the following:

Chapter 18-1 (State Land Acquisition Procedures):

- clarify appraisal related language by adding, deleting, or amending definitions;
- add references to, and requirements of, chapter 259, F.S., for conservation lands procedures;
- reduce redundancy and inconsistency between statute, the Supplemental Standards, and the current rule, which, to the extent practicable, need to conform to technical changes of the Appraisal Foundation, as published in the “Uniform Standards of Professional Appraisal Practice, 2006” (Uniform Standards);
- incorporate the “Supplemental Appraisal Standards for Board of Trustees Land” (Supplemental Standards) by reference. These standards supplement the national Uniform Standards by setting forth the professional standards unique to the needs of the Board of Trustees, and are included for the Board of Trustees consideration, as they will be incorporated, by reference, upon adoption of the rule. Originally titled the “Supplemental Appraisal Standards for Board of Trustees Land Acquisition”. The word “Acquisition” has now been deleted from the title in order to expand the appraisal standards to cover issues present in the appraisal services for management decision, such as dispositions, leases, and easements, as referenced by chapters 18-2 and 18-21, and incorporated therein by reference as well - see below;
- update appraiser selection procedures to reflect current practices to ensure appraisal services are obtained efficiently and at the lowest reasonable cost, while not sacrificing quality or violating competency in the services received;
- update general requirements for land acquisition; and
- add the requirement that cooperating agencies under acquisition agreements follow DSL’s procedures and chapter 18-1.

Chapter 18-2 (Management of Uplands vested in the Board of Trustees):

- update terminology and definitions;
- add and clarify appraisal procedures;
- incorporate appraisal references to chapter 18-1 for consistency with other chapters, and establishes and clarifies appraiser selection procedures and the appraisal process;

Item 1, cont.

- incorporate by reference the Supplemental Standards and the Uniform Standards to assure professional standards of appraisal work for disposition and management decisions;
- provide applicants with a cost effective means of appraising the value of small, scattered platted lots of vacant land vested in the Board of Trustees where the cost of the appraisal can be higher than the value of the property;
- add the requirement that the sale of surplus land, with an estimated value in excess of \$100,000, take into consideration an appraisal;
- add new definitions to the rule chapter for “conservation lands,” “land acquisition program,” and “nonconservation lands”;
- address revised statutory requirements for land management planning for conservation lands in sections 253.034, 253.036 and 259.032, F.S.;
- distinguish between ARC’s role and DSL’s role in reviewing conservation vs. nonconservation lands for potential sublease and surplus lands evaluations; and
- require land managers to specifically address public comments and recommendations of statutorily required advisory groups and land management review teams in sections 259.032 and 259.036, F.S.

Chapter 18-21 (Sovereignty Submerged Lands Management):

- incorporate appraisal references to chapter 18-1 for consistency with other chapters, and to establish and clarify appraiser selection procedures and the appraisal process;
- incorporate by reference the Supplemental Standards and the Uniform Standards to assure professional standards of appraisal work for submerged lands management decisions;
- update fee formulas to reflect current year multipliers;
- provide a more cost effective means for applicants seeking private single-family residential easements;
- where the use and size of an easement across sovereignty submerged lands remains unchanged, clarify that the cost for the renewal of easements will not include any enhancement value;
- provide that major modification or certain significant changes to existing leases or easements across sovereignty submerged lands will be treated as a new application for purposes of notification of adjacent property owners; and
- conform the filled lands rule to statutory changes in sections 253.12(9) - (10), F.S.

Chapter 18-24 (Florida Forever Land Acquisition and Management):

- codify ARC’s procedures and application requirements for evaluating proposed boundary amendments to Florida Forever land acquisition projects; and
- establish criteria for when ARC will expedite the evaluation process to consider proposed boundary amendments. Because of concerns of JAPC, these criteria were substantially

Item 1, cont.

revised from those originally approved by the Board of Trustees for publication, and they now consist of the following three criteria, all of which a proposed boundary amendment must satisfy:

1. Less than 1,000 acres in size;
2. Less than 10% of the size of the current project boundary; and
3. Value of less than \$2 million by the county property appraiser.

Proposals not meeting all three criteria would be required to be submitted as new project proposals subject to a lengthier evaluation process.

(See Attachment 1, Pages 1-97)

RECOMMEND APPROVAL

Item 2 **February 2008 Florida Forever Report/Priority List**

REQUEST: Consideration of (1) the February 2008 Florida Forever Report of the Acquisition and Restoration Council; and (2) the February 2008 Florida Forever Priority List.

STAFF REMARKS: The February 2008 Florida Forever Report was prepared pursuant to chapter 259, F.S., and chapter 18-24, F.A.C. During the Acquisition and Restoration Council (ARC) meetings of August 17, October 12, and December 14, 2007, ARC added three new projects, removed one project, moved four projects from Group A to Group B, moved one project from Group B to Group A, and amended the boundaries of four projects on the August 2007 Florida Forever Priority List. The February Report includes the February 2008 Florida Forever Priority List of acquisition projects approved by ARC on December 14, 2007 and proposed for adoption by the Board of Trustees.

<u>New Projects Added to List</u>	<u>Total Acres</u>	<u>County</u>
Crossbar/Al Bar Ranch (Group A)	12,432	Pasco
Myakka Ranchlands (Group A)	18,739	Sarasota
Pillsbury Mound (Group A)	1	Manatee

<u>Projects Removed From List</u>	<u>Reason</u>	<u>County</u>
Harris School	Owner rejected Trustees' prerequisite	Monroe

<u>Projects Moved From Group A to Group B</u>	<u>Reason</u>	<u>County</u>
Devil's Garden	Negotiations impasse	Hendry/Collier
Mill Creek	Negotiations impasse	Marion
Okeechobee Battlefield	Essential parcel acquired	Okeechobee
Panther Glades	Negotiations impasse	Hendry

Item 2, cont.

<u>Projects Moved From Group B to Group A</u>	<u>Reason</u>	<u>County</u>
West Aucilla River Buffer	Easement with limited public access	Jefferson

<u>Projects with Boundary Amendments</u>	<u>Acres Added</u>	<u>County</u>
Florida Keys Ecosystem	9	Monroe
Indian River Lagoon Blueway	47	Indian River
Wakulla Springs Protection Zone	700	Leon
Wekiva-Ocala Greenway	675	Orange

ARC identified 21 projects within Group A on which the Department of Environmental Protection's (DEP) Division of State Lands (DSL) should focus acquisitions using the remaining Florida Forever funds. ARC members received public testimony and data for each project's resource values as well as information on the current acquisition status, partnerships, managing agencies, year project was first listed, and special government initiatives (i.e., Oceans Initiative, Florida Keys, Wekiva, First Magnitude Springs, military buffering, and conservation easements). DSL is using this list of priority projects in developing its acquisition work plan.

<u>Highest Acquisition Priority Projects</u>	<u>Acres Remaining</u>	<u>County</u>
Adams Ranch	11,057	Osceola
Apalachicola River	15,067	Liberty/Gadsden/ Calhoun/Jackson
Bombing Range Ridge	33,950	Polk/Osceola/Highlands
Caber Coastal Connector	7,761	Levy
Clear Creek /Whiting Field	5,026	Santa Rosa
Corkscrew Regional Ecosystem Watershed	45,393	Collier/Lee
Escribano Point	1,748	Santa Rosa
Esterio Bay	5,994	Lee
Florida Keys Ecosystem	6,402	Monroe
Florida's First Magnitude Springs	7,899	Walton/Washington/Bay/ Jackson/Wakulla/Leon/ Hamilton/Madison/ Suwannee/Lafayette/ Levy/Marion/Hernando
Indian River Lagoon Blueway	22,614	Volusia/Brevard/Indian River/St. Lucie/Martin
Lake Wales Ridge Ecosystem	34,353	Highlands/Polk/ Lake/Osceola
Myakka Ranchlands	18,739	Sarasota
Northeast Florida Blueway	14,444	Duval/St Johns/Flagler
Northeast Florida Timberlands & Watershed Reserve	87,206	Nassau/Duval/Clay
Ochlockonee River Conservation Area	3,633	Gadsden/Leon

Item 2, cont.

St. Joe Timberland	117,662	Bay/Franklin/Gadsden/ Gulf/Jefferson/Leon/ Liberty/Taylor/Wakulla/ Walton/Washington
St. Johns River Blueway	27,036	St. Johns
Upper St. Marks River Corridor	13,080	Leon/Jefferson/Wakulla
Wakulla Springs Protection Zone	3,949	Wakulla/Leon
Wekiva-Ocala Greenway	36,190	Lake/Orange/ Volusia/Seminole

The Florida Forever Tool for Efficient Resource Acquisition and Conservation (F-TRAC) and Single Resource Ranking are analyses produced every six months by the Florida Natural Areas Inventory (FNAI) to provide scientific support to ARC in advance of its semi-annual vote on Florida Forever land acquisition projects. The analyses provide a concise overview of the natural resource values of each existing and proposed Florida Forever project. A Single Resource Ranking is provided for ten resource types outlined in the Florida Forever Act. The F-TRAC 2010 Scenarios show which projects offer the greatest return in resource protection given the estimated acreage likely to be acquired by Florida Forever. Complete documentation for the F-TRAC and Single Resource Ranking analyses may be downloaded from the FNAI website (www.fnai.org).

The F-TRAC and Single Resource Ranking analyses evaluate projects only according to natural resource values. Other considerations such as willing sellers, active negotiations, completing projects, management feasibility, development threat, etc., are always part of any decision regarding project status. The information provided in these analyses is not intended to substitute for the informed judgment of expert decision makers. The analyses are a tool to guide decision-making, not a final conservation plan that must be followed. Nevertheless, the F-TRAC and Single Resource Ranking provide sound direction for Florida Forever, and decisions made to the contrary should be justifiable.

Since its inception in July 2001 through September 2007, the state's Florida Forever land acquisition program has been extremely successful as evidenced by the protection of:

- 575,400 acres of Integrated Wildlife Habitat, formerly know as Strategic Habitat Conservation Areas (Florida Fish and Wildlife Conservation Commission);
- 375,380 acres of rare species habitat conservation areas (FNAI), and over 540 listed species locations of 193 different species, 106 of which are state-listed as endangered, 42 state-listed threatened, and 13 species of special concern;
- 539,720 acres of ecological greenways (Office of Greenways & Trails);
- 52,150 acres of under-represented natural communities;
- 62,520 acres of natural floodplains;
- 563,210 acres important to significant water bodies;
- 5,130 acres of fragile coastline;

Item 2, cont.

- 244,930 acres of functional wetlands;
- 558,120 acres of significant groundwater recharge areas;
- 96,690 acres of land to support priority recreational trails;
- 274,340 acres of sustainable forest land; and
- 427 archaeological and historic sites.

These acreages were derived from the most recently updated Florida Forever data layers, which are continuously amended to reflect the most current scientific analyses of Florida's natural resources. Additionally, the acreages recorded for each measure often overlap, and thus should not be added together. Collectively, the State of Florida has protected over 600,604 acres of land with \$2.18 billion in Florida Forever funds through December 2007.

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

The February 2008 Florida Forever Priority List is consistent with section 187.201(9), F.S., the Natural Systems and Recreational Lands section of the State Comprehensive Plan.

The February 2008 Florida Forever Report is being submitted in digital format.

(See Attachment 2, Page 1)

RECOMMEND ACCEPTANCE OF THE FEBRUARY 2008 FLORIDA FOREVER REPORT AND APPROVAL OF THE FEBRUARY 2008 FLORIDA FOREVER PRIORITY LIST