

**AGENDA
BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
NOVEMBER 17, 2009**

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

http://www.dep.state.fl.us/secretary/cab/public_notices.htm

Substitute Page

Item 1 Minutes

Submittal of the Minutes from the September 29, 2009 Cabinet Meeting.

(See Attachment 1, Pages 1-8)

RECOMMEND APPROVAL

**Substitute Item 2 Board of Trustees/City of Lakeland Exchange Agreement/
Determinations/Waiver**

REQUEST: Consideration of (1) a determination that 111.27 acres of state-owned land in Polk County (a) is no longer needed for conservation purposes pursuant to Article X, section 18 of the Florida Constitution and section 253.034(6), F.S; (b) no longer needs to be preserved in furtherance of the Preservation 2000 Act pursuant to section 259.101(6)(b), F.S.; and (c) is surplus; (2) an exchange agreement to convey 111.27 acres of state-owned land in exchange for 125.47 acres of land owned by the City of Lakeland; (3) a determination that the exchange will result in a net positive conservation benefit to the State, pursuant to section 253.034(6), F.S.; and (4) a request that the Board of Trustees waive the statutory requirement for no less than a special warranty deed and accept a deed of conveyance without title warranties, with the public's interest being protected by a title insurance policy.

COUNTY: Polk
Deed No. 32099

APPLICANTS: City of Lakeland (City) and Florida Fish and Wildlife Conservation Commission (FWC)

LOCATION: Sections 31 and 32, Township 27 South, Range 24 East

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>MAXIMUM APPROVED VALUE</u>	<u>EXCHANGE VALUE</u>	<u>CLOSING DATE</u>
		<u>Benson (05/16/08)</u>	<u>String (05/16/08)</u>			
City of Lakeland	125.47*	\$4,352,800	\$4,463,000	\$4,463,000	\$4,463,000	120 days after BOT approval
BOT	111.27*	\$3,668,600	\$3,753,000	\$3,753,000	\$3,753,000	

*Current boundary sketches of the property indicate change in original acreage of both the City and Board of Trustees' parcels. The values reflect the changes to the acreage.

STAFF REMARKS: The Department of Environmental Protection's (DEP) Division of State Lands (DSL) received a request from the City and FWC for an exchange.

Substitute Item 2, cont.

General Description of Request

The Board of Trustees would convey 111.27 acres of land currently managed as part of the Tenoroc Fish Management Area (TFMA). In exchange, the City would convey 125.47 acres of undeveloped lands.

Parcel Description

The state-owned property proposed for exchange is located between Lake Parker and Lake Crago. The City's property is situated to the east of the state-owned property and extends around Lake Parker adjoining TFMA. All lands proposed in the exchange are located within Polk County.

The Board of Trustees originally acquired the state-owned land in 2000 as part of the Bridgewater (Bridgewater) tract acquisition through the FWC Preservation 2000 Additions and Inholdings Acquisition Program (P2000 funds), as an addition to the TFMA. Bridgewater is comprised of reclaimed phosphate mine land with several artificial pit lakes scattered throughout the property. The portion of Bridgewater proposed for exchange was acquired to: protect the north shoreline of Lake Parker from residential and commercial development and to ensure public access to Lake Crago and the various phosphate lakes within and around Bridgewater for fishing and wildlife appreciation. All but two of the lakes, Lake Parker and Little Lake Parker, were created as a result of phosphate mining.

Project Synopsis

FWC was approached by the City to exchange its property which is slated for development. Pursuant to the City of Lakeland Master Plan for Parks and Open Space, a community center and outdoor recreation facility (City Park) is to be built on the City's property. Improvements to the property would include soccer and youth baseball facilities, a multi-purpose building, canoe concession, nature trails, picnic facilities, and other related amenities. However, the City would need to build a lighted, paved road to access the City Park from Lakeland Hills Blvd./S.R. 33. This future road would severely impact FWC's ability to manage a portion of the Bridgewater tract by splitting the state-owned property from the main management area. This separation would create an isolated tract including Tern Lake and Lake Coronet.

FWC, in partnership with DEP's Division of Water Resource Management's Bureau of Mining and Minerals Regulation (BMMR), are actively reclaiming mined lands at TFMA by recreating wetlands, reforestation, and upland and aquatic plant control. Land tracts have been prioritized based on restoration need, site location and management capabilities of restored areas. The proposed exchange property currently owned by the State is in need of habitat restoration and exotics control; however, it doesn't have a high restoration priority because of its potential isolation by the proposed roadway. If an isolated tract is created by the road, it would be more difficult to conduct prescribed burns to reduce exotics and fuel loads, and fire management would be further compromised. The better wildlife habitat on the City's property means that management and restoration costs would be significantly less than what would be required on the state-owned land to create equal habitat values. This cost savings could be used towards restoring other areas of the TFMA.

Substitute Item 2, cont.

Additionally, a 24.6-acre state-owned parcel along Lake Parker, containing mature oak hammock, planted pines and lake-frontage, is proposed to be subleased to the City if this exchange is realized. This parcel would be included and managed as part of the City Park, providing nature-based recreation such as walking trails, fishing piers, wildlife viewing platforms, and other related amenities. FWC, BMMR, the Department of Agriculture and Consumer Services' Division of Forestry (DOF) and the City would cooperate under a sublease agreement to plan the management of this property. The benefit of this sublease would be city-funded management for this tract to be maintained in a natural state while providing public access and wildlife-appreciation opportunities that currently do not exist.

Letters in support of the proposed exchange have been received from local representatives.

Acquisition and Restoration Council

The proposed exchange request was recommended for approval by the Acquisition and Restoration Council (ARC) on February 15, 2008.

Constitution and Statute 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 253.034(6), 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. The Board of Trustees must also make a determination that such land no longer needs to be preserved in furtherance of the P2000 Act pursuant to section 259.101(6)(b). DSL staff is recommending an affirmative determination by the Board of Trustees that the subject property is no longer needed for conservation purposes and no longer needs to be preserved in furtherance of P2000 for the following reasons:

- a majority of the state-owned property is disturbed land as a result of past phosphate mining and mining-related activities that was reclaimed as improved pasture and as such lacks quality wildlife habitat;
- although the property was purchased with P2000 funds, it was not acquired to preserve pristine land or habitat critical for wildlife protection. The purpose of the acquisition was to ensure public access to Lake Crago, protect the north shoreline of Lake Parker from residential and commercial development and acquire public access to the various phosphate lakes within the tract for fishing and wildlife appreciation. These objectives are maintained by this exchange and the disposition of the 111.27 acres of state land will not reduce the conservation benefits or purposes for the TFMA;
- the state-owned property does not provide public access to Lake Parker and Lake Coronet (access issues);
- the state-owned property is bisected by a road corridor that divides it into three isolated parcels (management issue); and
- the state-owned property requires extensive wildlife habitat restoration (cost issue).

Substitute Item 2, cont.

DSL staff is also recommending the Board of Trustees make an affirmative determination that the exchange will result in a net positive conservation benefit to the State because:

- ARC recommended approval of the exchange as providing a net positive conservation benefit to the State pursuant to 18-2.021, F.A.C. and section 253.42(2), F.S.;
- the State would acquire lands that provide better quality wildlife habitat, including lakefront, hardwood forest, and a remnant parcel of the Lakeland Ridge scrub;
- it provides an overall net increase of approximately 14.2 acres to the TFMA;
- full state-ownership of Little Lake Parker shoreline would provide total shoreline protection, areas of mature tree canopy, and state-owned access to Lake Coronet;
- it eliminates a potentially bisecting high-traffic road and protects valuable wildlife habitat (current city property sub-divides the State property into three isolated pieces creating operational difficulties in providing public access and land management of these parcels);
- the state-owned tract lacks adequate wildlife habitat and requires extensive long term restoration, whereas the city-owned tract supports better wildlife habitat that does not require extensive restoration, and thus provides an additional positive benefit by reducing upland habitat restoration costs;
- the exchange reduces upland exotic plant control cost within parts of the management area;
- it provides an overall net increase in acreage of state-owned lands;
- it creates a good partnership opportunity with the City to provide enhanced wildlife appreciation opportunities for park users in the Lakeland urban area; and
- the state will receive more valuable parcels of land; the difference in value is \$710,000.

If the exchange is accomplished, the City Park would be located between residential/commercial and restored/protected upland wildlife habitat, thus providing an effective land use buffer. The state-owned property would now include all of the shoreline of Little Lake Parker, wooded and scrub habitat north and south of Little Lake Parker, and un-restricted access to FWC property that contains Lake Coronet. Also, an adjacent 24.6-acre parcel with a native oak hammock would remain in state ownership but would also be managed by the City through a sublease agreement with FWC, BMMR and DOF. This parcel would be incorporated into the City Park for fishing access, nature trails, picnic facilities, wildlife viewing facilities, and other wildlife appreciation opportunities. The need for the bisecting road for park access is eliminated and this would benefit wildlife dispersal and movement.

Section 259.101(6)(b), F.S. also provides that state-owned lands that are being surplusd may be used to acquire other lands through an exchange, provided that the lands being obtained in the exchange are described in the same paragraph of section 259.101(3), F.S. as the lands disposed. In this instance, both the lands being surplusd and the lands being obtained from the City are described in section 259.101(3)(f) (inholdings and additions managed by FWC).

The City charter only allows the City to convey land by “fee simple deed”. Therefore, the City is requesting that that the Board of Trustees waive the statutory requirement for no less than a special warranty deed set forth in section 259.041(12), F.S., and accept a fee simple deed

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pursuant to section 259.041(1), F.S. The public's interest would be protected by the purchase of a title insurance policy for the property.

Noticing

Pursuant to section 253.115, F.S., property owners within 500 feet of the proposed exchange parcels were noticed on October 10, 2008. No comments or objections were received. Local governments were not noticed pursuant to section 253.111(6), F.S. and state agencies were not noticed pursuant to section 18-2.019, F.A.C.

Management Review

FWC and BMMR, as co-lead managers of the TFMA, along with DOF, as the cooperating manager, support this proposed exchange. FWC, BMMR, DOF and DSL staff believe the exchange is in the public's best interest and the proposed use is in accordance with section 253.034(10), F.S., permitted uses for conservation land.

Comprehensive Plan

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

(See Attachment 2, Pages 1-54)

RECOMMEND APPROVAL

Substitute Item 3 **Town of Davie Conveyance/Determination/UF/IFAS**

REQUEST: Consideration of a (1) determination that a sale of a 14.05-acre tract of state-owned, non-conservation land to the Town of Davie, Florida provides a greater benefit to the public than its retention in the Board of Trustees' ownership, pursuant to section 18-2.018(3)(b)1.c., F.A.C.; and (2) contract for sale and purchase of the subject parcel to the Town of Davie for a water/wastewater treatment facility.

COUNTY: Broward

APPLICANTS: Town of Davie, Florida, a municipal corporation

LOCATION: Section 22, Township 50 South, Range 41 East

**Board of Trustees
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Substitute Item 3, cont.

CONSIDERATION: \$6,203,000 to be deposited in the University of Florida’s Institute of Food and Agricultural Sciences (UF/IFAS) Relocation and Construction Trust Fund

<u>PARCEL</u>	<u>ACRES</u>	APPRAISED BY <u>Philip Holden</u> <u>(12/31/08)</u>	APPRAISED BY <u>Griffin & Boyd</u> <u>(12/10/08)</u>	BUYER’S <u>PURCHASE</u> <u>PRICE</u>	CLOSING <u>DATE</u>
UF/IFAS	14.05	\$6,203,000	\$5,500,000	\$6,203,000	120 days after BOT approval

STAFF REMARKS: The Department of Environmental Protection (DEP), Division of State Lands received a request from UF/IFAS to surplus and sell 14.05 acres of non-conservation, state-owned land to the Town of Davie, Florida (Town). The Town needs to acquire the tract for a water/wastewater treatment facility. The subject parcel is part of a larger 80-acre tract that is currently occupied by the UF/IFAS Ft. Lauderdale Research and Education Center and can be sold without adversely affecting its operations.

Background

The subject property was acquired by the Board of Trustees by virtue of the Swamp and Overflowed Lands Act of the United States Congress, approved September 28, 1850, by Gainesville Patent 137, and dated April 29, 1903. The subject property is located in the western portion of the larger tract. The subject parcel is vacant land and contains various palm trees, shrubs and vegetation. The southwest corner of the tract has been compromised and is separated from the main parcel by a paved road consisting of 0.534 acres (SW 30th Street) which also hinders adequate management and use by UF/IFAS. This paved right-of-way is unrecorded, however, it has been included in the surveyed land area and at the request UF/IFAS valued as encumbered in the appraisal. This was justified due to public use of the road for many years.

After determining the need for a water/wastewater reclamation facility, the Town reviewed several parcels for the location of the proposed facility. The Town concluded that parcel selection was to be determined based upon the following criteria: proximity to existing and future users; proximity to planned utility transmission line upgrades; water reuse potential; price; and current land use and zoning. The facility requires between 10 and 15 acres of land. The state-owned parcel satisfies all the criteria listed above and the Town’s proposed use of the parcel has the support of the University of Florida. The current land use and zoning of the parcel will allow the proposed facility to be built without any comprehensive plan amendments.

Constitution and Statutory Requirements

Pursuant to Chapter 90-148, Laws of Florida, UF/IFAS may sell, trade, exchange, or otherwise dispose of state agricultural research and education real property and improvements used by UF/IFAS and the proceeds shall be used for the relocation and construction of new educational and agricultural facilities. Proceeds will be deposited in the UF/IFAS Relocation and Construction Trust Fund.

Substitute Item 3, cont.

Public Interest Evaluation

DEP staff recommends the Board of Trustees determine that conveyance of the subject parcel provides a greater benefit to the public than its retention in the Board of Trustees' ownership, pursuant to section 18-2.018(3)(b)1.c., F.A.C. Due to the parcel being non-conservation land, the greater benefit to the public determination is based upon the public need for a water/wastewater treatment facility to accommodate the Town since it has reached its capacity for local water/wastewater treatment. This has adversely affected the Town's ability to deliver utilities to new connections such as the UF and Florida Atlantic University's joint use academic building in Davie, as well as other local customers such as Nova Southeastern University, the Fire Academy, and a nearby multifamily apartment complex.

The proposed sale of the subject parcel would allow the Town to construct a water/wastewater treatment facility that will:

- provide a solution to the lack of capacity in the Town's water/wastewater treatment system;
- reduce the chance of possible groundwater contamination by utilizing a central system rather than many individual septic tanks;
- provide reuse water as an alternative water source for irrigation and other non-potable water uses, which will reduce the demand for potable (drinking) water; and
- support Broward County's Transit Oriented Corridor (TOC), a proposed comprehensive plan amendment necessary to implement the community vision plan, known as the SR7/441 Corridor Master Plan. The TOC was created to encourage transit-supported redevelopment along this premium transit corridor. The Town was commended by the Department of Community Affairs, in 2006, for its participation in this effort; but objected to the amendment solely due to the need to demonstrate adequate water supply and wastewater treatment capacity to serve the amendment site.

The Town Council met at one of its regularly scheduled meetings on September 8, 2009 and unanimously passed a resolution to acquire the subject property. A ten percent deposit of \$620,300 was received as an earnest deposit.

Approval by the Board of Trustees does not exempt the Town from obtaining all applicable permits and complying with all applicable permits, regulations, ordinances, rules, and laws of the State of Florida, the United States, or of any political subdivision or agency of either.

Noticing

Pursuant to section 253.111, F.S., and rule 18-2.019(5)(a), F.A.C., Broward County and state agencies were notified of the sale and did not express any interest in the property by the end of the noticing period. In accordance with section 253.115, F.S., property owners within 500 feet of the parcel were also noticed regarding the availability of the parcel. No objections were received. Letters of support for the water/wastewater facility have been received from Florida Atlantic University, Nova Southeastern University, the Fire Academy, Broward College and Equity Residential, the owner of the multifamily rental community adjacent to the proposed site.

Substitute Item 3, cont.

Comprehensive Plan

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

(See Attachment 3, Pages 1-19)

RECOMMEND APPROVAL