

**AGENDA**  
**BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND**  
**MARCH 9, 2011**

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

[http://www.dep.state.fl.us/secretary/cab/public\\_notices.htm](http://www.dep.state.fl.us/secretary/cab/public_notices.htm)

Substitute Page

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**Item 1 Minutes**

Submittal of the Minutes from the January 19, 2011 Cabinet Meeting.

**VOTING REQUIREMENT FOR APPROVAL:** Simple majority

(See Attachment 1 at [http://www.dep.state.fl.us/secretary/cab/public\\_notices.htm](http://www.dep.state.fl.us/secretary/cab/public_notices.htm))

**RECOMMEND APPROVAL**

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**Substitute Item 2 Board of Trustees/Harrell Groves, Inc. Exchange Agreement/  
Determinations**

**REQUEST:** Consideration of (1) a determination that a 3.7-acre parcel, more or less, of state-owned conservation land in Manatee County is (a) no longer needed for conservation purposes, pursuant to Article X, section 18 of the Florida Constitution and section 253.034(6), F.S.; and (b) is surplus; (2) a determination that an exchange will result in a net positive conservation benefit to the state, pursuant to section 253.034(6), F.S.; and (3) approval of an exchange agreement in which the Board of Trustees would convey a 3.7-acre parcel of state-owned conservation lands in Manatee County in exchange for a 10-acre parcel owned by the Harrell Groves, Inc., a Florida corporation.

**VOTING REQUIREMENT FOR APPROVAL:** Three votes

**COUNTY:** Manatee

**APPLICANT:** Harrell Groves, Inc., a Florida corporation (Harrell Groves)

**LOCATION:** Section 07 and 18, Township 33 South, Range 21 East

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

<u>PARCEL</u>	<u>ACRES</u>	APPRAISED BY String Appraisal Services <u>04/16/2010</u>	EXCHANGE <u>VALUE</u>	CLOSING <u>DATE</u>
BOT	3.7+/-	\$11,500	\$11,500	180 days after
Harrell Groves	10+/-	\$32,000	\$32,000	BOT approval

**STAFF REMARKS:** The Department of Environmental Protection's (DEP) Division of Recreation and Parks (DRP) and Division of State Lands (DSL) received a request from Harrell Groves to exchange a 3.7-acre state-owned parcel for a 10-acre parcel owned by Harrell Groves.

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**Substitute Item 2, cont.**

**Background**

The 3.7-acre state parcel is part of 1,124 acres that was donated to the Board of Trustees in 1988 pursuant to a settlement and compromise agreement entered as part of a Chapter 11 bankruptcy reorganization. The property is part of the Beker South Fork Unit and is currently under the management of DRP.

The donated property lies adjacent to property owned by Harrell Groves, which consists of an active orange grove. A survey done in 1988 showed numerous boundary encroachments, including a fence on the donated parcel. Because the property was acquired as part of a settlement agreement there was no time to cure the encroachments; therefore, the property was accepted without restrictions or conditions. The Department of Natural Resources, now known as DEP, decided to leave the fence line encroachment in place until such time that a new fence could be installed. The current owner of the grove, as well as previous owners, used the 3.7-acre state-owned strip of land that runs along the shared boundary line for turning equipment, burning dead trees, and passage around the edge of the grove. When DRP attempted to install a new fence in 2008, and properly delineate the boundary between the two properties, the land exchange was proposed. Aerials of the property dating back to 1978 show that the 3.7-acre parcel was disturbed prior to its donation to the state.

**Acquisition and Restoration Council**

The proposed exchange request was recommended for approval by the Acquisition and Restoration Council on December 11, 2009.

**Constitutional 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. DEP staff is recommending an affirmative determination by the Board of Trustees that the subject parcel is no longer needed for conservation purposes for the following reasons:

- it consists of disturbed uplands and would require extensive time and money to restore; and
- it is a linear parcel (approximately 80-feet-wide) located on the park boundary that does not provide access and is no longer needed for park purposes.

DEP staff is also recommending that the Board of Trustees make an affirmative determination that the proposed exchange will provide a net positive conservation benefit because the state will receive a parcel that:

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**Substitute Item 2, cont.**

- has wetlands and adjacent slope along the south fork of the Little Manatee River;
- contains superior intact natural resources that buffer the creek and its acquisition will act to smooth out the eastern boundary of South Fork;
- will bring South Fork Creek into the park boundary and add some protected buffer along the banks;
- contains approximately eight acres of bottomland forest, 1.5 acres of scrub/scrubby flatwoods, and less than an acre of blackwater stream; and
- is a net positive gain of 6.3 acres.

**Management**

The 10-acre parcel will be managed by DRP as part of Beker South Fork Unit.

**Noticing**

The applicant is the only owner of land lying within 500 feet of the proposed land exchange, therefore noticing pursuant to section 253.115, F.S., was waived.

State agencies and state universities were noticed pursuant to section 253.034, F.S., and no interest was received. Pursuant to section 253.111, F.S., exchanges are exempt from county noticing

**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 purposes.

(See Attachment 2, Pages 1-22)

**RECOMMEND APPROVAL**

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**Substitute Item 3 Christ Gospel Church of St. Petersburg, Inc. Acceptance of Bid and Offer/Sale and Purchase Contract/Determination**

**REQUEST:** Consideration of (1) a determination that a 0.37-acre, more or less, improved parcel of non-conservation land is surplus and no longer needed pursuant to section 253.034(6), F.S.; (2) acceptance of a bid and offer in the amount of \$175,000 submitted by Christ Gospel Church of St. Petersburg Inc., for the purchase of the 0.37-acre, more or less, improved parcel of state-owned land; and (3) approval of a contract for sale and purchase of the 0.37-acre, more or less, parcel of state-owned non-conservation land to Christ Gospel Church of St. Petersburg, Inc.

**VOTING REQUIREMENT FOR APPROVAL:** Three votes

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**Substitute Item 3, cont.**

**COUNTY:** Pinellas  
Bid No. BPLA2011-001

**APPLICANT:** Christ Gospel Church of St. Petersburg, Inc. (Church)

**LOCATION:** Section 35, Township 31 South, Range 16 East

**CONSIDERATION:** \$175,000 to be deposited in the Internal Improvement Trust Fund

<u>PARCEL</u>	<u>ACRES</u>	APPRAISED BY Tod Marr & Assoc. <u>(9/20/10)</u>	<u>BID AMOUNT</u>	CLOSING <u>DATE</u>
BOT	0.37	\$240,000	\$175,000	120 days after BOT approval

**STAFF REMARKS:**

**Background**

In November 1978, the Board of Trustees acquired the property which was improved with a 5,471 square foot office building constructed in 1963. The facility was operated as the St. Petersburg Probation and Parole Office from 1983 to 2008 under Board of Trustees' Lease No. 3280 to the Department of Corrections (DOC). The building has been vacant since 2008; however, DOC continues to maintain the premises, as required by the lease, with current annual operating expenses of \$10,260 for utilities and security. The lease expires in 2033 but DOC no longer needs this parcel because the Parole and Probation Office has consolidated sites to Sebring, Florida and has requested to release the lease.

**Bid History**

The parcel was offered for lease to state agencies on May 6, 2008, and subsequently to the city and county on September 4, 2008, but there were no interested parties. Because of a 2009 statutory change, the parcel was offered to state agencies and state universities on August 7, 2009, and again there were no interested parties.

The parcel was advertised for sale on the Department of Environmental Protection (DEP) website beginning on May 14, 2009, until the most recent bid opening. This parcel was offered for bid three times during the same time period and for each bid, advertisements were placed in the St. Petersburg Times, brochures were sent to surrounding property owners and local real estate offices, and a "For Sale" sign was placed on the parcel.

The first bid was on June 17, 2009, and the parcel was offered for sale by competitive bid with a minimum bid set at \$490,000 (December 12, 2008, appraised value) which resulted in no bids. The property was bid a second time on June 7, 2010, with no minimum bid amount set and the bid conditions stated in part, "The appraised value for this property is \$490,000. Any reasonable offer will be considered." One bid was received from the Church, which is the adjacent

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**Substitute Item 3, cont.**

landowner, in the amount of \$100,100. The bid was rejected because it was significantly below the appraised value of \$490,000.

The property was reappraised on September 20, 2010, to obtain a current value due to the decline in the real estate market since the first appraisal, the previous unsuccessful bids, and the length of time that the property has been unsuccessfully advertised. The reappraisal valued the property at \$240,000. The property is sold 'as is, where is' and is in need of repairs and on-going maintenance. DOC has identified approximately \$15,000 in repairs and maintenance that will need to be completed to make the building usable, such as replacing the fire alarm system and two air conditioner units.

While it is always DSL's practice to seek the highest sale price when surplus state-owned property, staff considered the cost of keeping, maintaining and advertising the 48-year-old building until a purchaser could be found versus accepting a lower sales price and removing the property from the state inventory. DEP's Division of State Lands, (DSL) staff offered the property for sale by competitive bid with a minimum bid of \$168,000, which is 70 percent of the new appraised value for this parcel. On January 12, 2011, only one bid was received in the amount of \$175,000 from the Church.

**Statute Requirement**

Pursuant to section 253.034(6), F.S., in order to surplus non-conservation land, the Board of Trustees must make a determination that the land is no longer needed. Due to the decline in the real estate market, the previous unsuccessful bids, the length of time that the property has been advertised without success, and the continued annual operating cost of \$10,260 expended by DOC to maintain the vacant building, DEP recommends that the Board of Trustees find this as a reasonable offer to accept and make a determination that the property is no longer needed and is surplus to the state's needs.

**Noticing**

Pursuant to sections 253.034 and 253.111, F.S., state agencies, state universities and the local government were notified of the proposed sale. No interest in leasing this property was received from any state agency or state university. The county showed some interest, however, it did not decide to lease the parcel after follow-up by DSL staff.

**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 3, Pages 1-18)

**RECOMMEND APPROVAL**

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**Item 4 HCI Marina, LLC (Bridge Harbor) Recommended Consolidated Intent/Lease**

**DEFERRED FROM THE FEBRUARY 22, 2011 AGENDA**

**REQUEST:** Consideration of an application for a ten-year sovereignty submerged lands lease containing 369,902 square feet, more or less, for a proposed 174-slip commercial marina.

**VOTING REQUIREMENT FOR APPROVAL:** Three votes

**APPLICANT:** HCI Marina, LLC (HCI) (a/k/a Bridge Harbor)  
Lease No. 030345531  
Application No. 03-0297763-003-DF

**LOCATION:** 7222 Boatrace Road, Callaway  
Callaway Bayou and Osprey Inlet, Bay County

**CONSIDERATION:** \$49,611.59, representing (1) \$39,689.27 as the initial annual lease fee computed at the base rate of \$0.153281 per square foot, discounted 30 percent because a minimum of 90 percent of the slips are open to the public for rent on a first-come, first-served basis; and (2) \$9,922.32 as the 25 percent surcharge payment for the initial area. 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 rule 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., 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.

**Background**

On October 2, 2009, HCI submitted an application for a proposed 232-slip commercial marina. The Department Environmental Protection (DEP) expressed concerns about the size and configuration of the proposed marina. The Florida Fish and Wildlife Conservation Commission (FWC) expressed concerns about potential shoreline erosion and hazards to navigation. On January 22, 2010, HCI withdrew its application for the 232-slip commercial marina.

On April 19, 2010, HCI submitted an application for a 194-slip commercial marina and subsequently modified the application to reduce the number of slips to 174. HCI addressed both DEP's and FWC's concerns related to size and configuration of the previously proposed marina and potential shoreline erosion and navigation hazards.

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**Item 4, cont.**

**Project Details**

HCI is proposing to construct a 174-slip (167 permanent and 7 temporary) commercial marina to be used in conjunction with an 18,000-square-foot commercial development consisting of stores, a restaurant, a marina rental office, and associated parking. The marina will accommodate recreational vessels ranging from 20 to 50 feet in length with drafts of up to 5 feet.

A minimum of 90 percent of all of the slips will be maintained on an open to the public, first-come, first-served basis pursuant to rule 18-21.003(27), F.A.C. This requirement has been included as a special lease condition.

**Noticing/Interested Parties**

The project was noticed as required pursuant to section 253.115, F.S., and rule 18-21.005(3), F.A.C. Twenty-seven property owners were specifically noticed and 12 objection letters were received. Also, the project was noticed as required pursuant to section 403.815, F.S., and rule 62-103.150, F.A.C., and 28 objection letters were received. The objectors raised the following concerns:

- (1) potential noise, lighting, traffic, and upland property zoning;
- (2) increased boat traffic and potential navigation hazards;
- (3) impacts to water quality; and
- (4) impacts to native fauna.

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

- (1) DEP coordinated with the city of Callaway (City) to ensure that the project is consistent with the local government comprehensive plan. The City provided a letter indicating that local building codes and setback requirements would be addressed in its authorization prior to construction of the marina;
- (2) DEP coordinated with FWC to ensure that its concerns about hazards to navigation were addressed. In addition, the U. S. Coast Guard provided a memo, dated February 25, 2010, indicating it had no comments or objections related to waterway safety;
- (3) all water quality parameters tested were in compliance with state standards. DEP's hydrographic engineering section stated no objection to the project on May 19, 2010; and
- (4) DEP coordinated with FWC to ensure that it had no comments or concerns related to potential impacts to fish, birds, and other animals.

A public meeting, facilitated by DEP, was held on June 24, 2010 at the Callaway Arts and Conference Center. Approximately 100 local residents attended. DEP has also sent each objector a letter responding to their specific concerns.

The Bay County Board of County Commissioners (County Commission), in a letter dated November 3, 2010, requested assurance that the concerns expressed by Bay County residents, located across the bayou from the proposed marina, be addressed during the review process of this project. In a November 17, 2010 letter, the County Commission advised that it was aware

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**Item 4, cont.**

that the concerns expressed in its November 3, 2010 letter had been resolved. The County Commission wished to make it clear that it has not taken any position with regard to the proposed marina application.

(See Attachment 4, Pages 1-163)

**RECOMMEND APPROVAL SUBJECT TO THE SPECIAL APPROVAL CONDITION,  
THE SPECIAL LEASE CONDITIONS, AND PAYMENT OF \$49,611.59**