

AGENDA
BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
NOVEMBER 1, 2011

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 August 16, 2011 Cabinet Meeting.

VOTING REQUIREMENT FOR APPROVAL: Two members, one of whom is the Governor, when four members are voting; or any two members, when three members are voting

(See Attachment 1 at http://www.dep.state.fl.us/secretary/cab/public_notices.htm)

RECOMMEND APPROVAL

Substitute Item 2 Presentation on Florida's Land Programs

Presentation by the Department of Environmental Protection on Florida's Land Programs.

VOTING REQUIREMENT FOR APPROVAL: N/A

COUNTY: Statewide

RECOMMEND WITHDRAWAL

Substitute Item 3 BOT/Coleman Exchange Agreement/Determinations/DACS/Florida Forest Service/John Bethea State Forest/Pinhook Swamp Florida Forever Project

REQUEST: Consideration of (1) a determination that a 81.34-acre parcel, more or less, of state-owned land (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.; and (b) no longer needs to be preserved in furtherance of the intent of the Preservation 2000 Act pursuant to section 259.101(6)(b), F.S.; (2) a determination that an exchange will (a) result in a net positive conservation benefit to the state, pursuant to section 253.034(6), F.S.; and (b) provide a greater benefit to the public than its retention in Board of Trustees' ownership pursuant to rule 18-2.018(3)(b)1.c., F.A.C.; and (3) approval of an exchange agreement in which the Board of Trustees would convey a 81.34-acre parcel, more or less, in exchange for a 39.95-acre parcel, more or less, and a 40.60-acre parcel, more or less, owned by James M. Coleman.

VOTING REQUIREMENT FOR APPROVAL: Three votes

COUNTY: Baker

**Board of Trustees
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Substitute Item 3, cont.

APPLICANTS: James M. Coleman (Coleman) and the Florida Department of Agriculture and Consumer Services, Florida Forest Service (FFS)

LOCATION: Section 26, Township 02 North, Range 20 East and Sections 28 and 34, Township 01 North, Range 20 East

CONSIDERATION: Parcel-for-parcel with \$2,000 cash boot to be paid by Coleman and deposited into the Preservation 2000 Trust Fund.

<u>PARCELS</u>	<u>ACRES</u>	APPRAISED BY	EXCHANGE	CLOSING
		Candler <u>(06/01/11)</u>	<u>VALUE</u>	<u>DATE</u>
BOT	81.34 +/-	\$211,000	\$211,000	120 days after BOT approval
Coleman	80.55 +/-	\$209,000	\$209,000	

STAFF REMARKS: The Department of Environmental Protection's (DEP) Division of State Lands received a request from Coleman and the FFS to exchange 81.34 acres of state-owned conservation lands for two parcels totaling 80.55 acres of land owned by Coleman.

Background

The state-owned parcel which is currently part of the John Bethea State Forest (Forest) was purchased in 2001 with Preservation 2000 funds as part of the Pinhook Swamp Florida Forever project and is located between and adjacent to lands owned by Coleman. The property is currently managed by FFS as part of the Forest. The Pinhook Swamp Florida Forever project is intended to protect and restore a natural area linking Osceola National Forest and Okefenokee National Wildlife Refuge to the Suwannee River. This project provides a huge, unpopulated tract of land for such wildlife as the Florida black bear and sandhill crane; helps maintain the water flows to the Okefenokee Swamp, Suwannee River, and St. Mary's River; and provides the public a large, near-wilderness tract in which to enjoy various recreational activities.

Project Description

The Board of Trustees' parcel proposed for the exchange is not contiguous with the remainder of the Forest, but the two parcels owned by Coleman are and will square off the boundaries for the Forest. FFS has advised that due to management issues, there are minimal recreational opportunities on the current, state-owned tract. The two parcels being acquired in the exchange are adjacent to the Forest and will provide improved access for public recreational opportunities such as hunting, fishing, and wildlife viewing. In addition, the location of these two parcels will reduce management costs and potential liability to the state. Coleman has agreed to pay all costs per the exchange agreement.

Acquisition and Restoration Council (ARC)

The proposed exchange request was recommended for approval by ARC on February 10, 2011.

Substitute Item 3, cont.

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 259.101(6)(b), F.S., the Board of Trustees must make a determination that the land no longer needs to be preserved in furtherance of the intent of the Preservation 2000 Act. Pursuant to section 253.034(6), F.S., in order to exchange conservation lands, the Board of Trustees, by an affirmative 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. A detailed evaluation was conducted by FFS prior to ARC's consideration of the exchange to thoroughly assess the conservation and recreation values of all the parcels. Given that the state-owned parcel is unmanageable in that it is isolated from the larger contiguous Forest land and has limited practical access, and in consideration of ARC's recommendation of the exchange after considering the conservation and recreation values of all the parcels, DEP is recommending that the Board of Trustees determine that the parcel is no longer needed for conservation purposes and that the conveyance of the subject parcel is in the public interest.

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

- create a more efficient and manageable boundary at the interface of public and private land;
- aid in streamlining land and wildlife management and create greater opportunities for utilization of prescribed fire;
- provide increased fishing, hunting and wildlife viewing opportunities; and
- reduce land fragmentation within the Forest.

Noticing

State agencies, state universities, and community colleges were noticed pursuant to section 253.034 (15), F.S., and no interest was received. Pursuant to section 253.111, F.S., exchanges are exempt from the requirement of county noticing.

Management Review

FFS, as manager, supports the proposed exchange as it will provide a well delineated and enforceable boundary for each tract. FFS and DEP believe the exchange is in the public's interest and the proposed use is in accordance with section 253.034(10), F.S., permitted uses for conservation land. This area is a historical hot-spot for catastrophic wildfire. Consolidating this boundary will aid in the defense of state-owned forest lands.

Comprehensive Plan

DEP has determined that the conveyances of land are not subject to the local government planning process.

Substitute Item 3, cont.

(See Attachment 3, Pages 1-17)

RECOMMEND APPROVAL

Item 4 Okeechobee Utility Authority Sale and Purchase Contract/Determination

REQUEST: Consideration of (1) a determination, pursuant to rule 18-2.018(3)(b)1.c., F.A.C., that the sale of a 406-acre, more or less, parcel to the Okeechobee Utility Authority provides a greater benefit to the public than its retention in Board of Trustees' ownership; and (2) approval of a contract for sale and purchase of the property to the Okeechobee Utility Authority.

VOTING REQUIREMENT FOR APPROVAL: Three votes

COUNTY: Okeechobee
Lease No. 3304

APPLICANT: Okeechobee Utility Authority (OUA)

LOCATION: Sections 26, 27, 34, and 35, Township 36 South, Range 35 East

CONSIDERATION: \$457,750 down payment with 25 annual payments of \$61,450 for a total of \$1,994,000 to be deposited in the Internal Improvement Trust Fund.

<u>PARCEL</u>	<u>ACRES</u>	APPRAISED BY: S. F. Holden, Inc. (09/03/10)	SALE <u>AMOUNT</u>	CLOSING <u>DATE</u>
BOT	406+/-	\$1,994,000	\$1,994,000	120 days after BOT approval

STAFF REMARKS:

Background

In 1956, Okeechobee County donated approximately 1,100 acres to the Board of Commissioners of State Institutions for the Florida School for Boys to be located on the property thereby providing job opportunities in the county. The Board of Trustees received this property by Chapter 67-269, Laws of Florida, Acts of 1967, as amended by Chapter 67-2236, which required the Department of Health and Rehabilitation to transfer and convey to the Board of Trustees, by properly executed deed, title to all real property owned by such Department and the officers thereof. The 1,100 acres is currently divided between the Florida Department of Juvenile Justice and OUA. The OUA lease, containing approximately 406 acres, was issued on December 23, 1983, and will expire on December 22, 2033. OUA is a regional utility authority created as an

Item 4, cont.

independent public agency by Interlocal Agreement dated December 10, 1994, between Okeechobee County and the City of Okeechobee, Florida, under the provisions of sections 163.01 and former 373.1962, F.S.

Project Description

The Department of Environmental Protection's (DEP) Division of State Lands (DSL) received a request from OUA to purchase a 406-acre, more or less, tract of land that it currently leases. The land is improved with a sewerage treatment plant. The reasons behind purchasing the property, rather than continuing the lease, is to: avoid the uncertainty of future negotiations and complications on a new lease of the land when the existing lease terminates; protect its multi-million dollar investment in infrastructure over land that it does not own; and facilitate the process of negotiating loans for future funding.

Okeechobee County was declared a Rural Area of Critical Economic Concern in accordance with Executive Order 11-81. Budget constraints have caused OUA to search outside sources for funding to purchase the property with no success. The sale of the land would benefit the Board of Trustees in that it will receive full value for a parcel of land that currently generates no revenue. The citizens of the City of Okeechobee and Okeechobee County will benefit pursuant to rule 18-2.018(3)(b)1.c., F.A.C., because the sewerage treatment plant provides infrastructure for future growth. OUA is asking the Board of Trustees to sell the property on the following terms:

- a purchase price of \$1,994,000;
- OUA will make a cash down payment in the amount of \$457,750, with the balance due paid in 25 equal annual payments of \$61,450;
- the unpaid balance of \$1,536,250 will be secured by a purchase money mortgage and promissory note, bearing interest at zero percent to the Board of Trustees;
- the promissory note will include a stipulation that the OUA not request refinancing or a change in terms of the loan from the Board of Trustees; and
- the mortgage would include a "due on sale clause" which will prevent another entity from assuming an interest free mortgage in the event OUA sold the property.

Noticing

Pursuant to sections 253.111 and 253.034, F.S., the county, local government, state agencies and universities were notified of the proposed sale. With the exception of OUA, there was no interest in the property.

Comprehensive Plan

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

(See Attachment 4, Pages 1-23)

RECOMMEND APPROVAL