

AGENDA
BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
February 2, 2021

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

<https://floridadep.gov/cab/cab/content/agendas>

Item 1 City of Daytona Beach Release of Restriction and Right of Revocation

REQUEST: Consideration of a (1) Release of Restriction and Right of Revocation from Board of Trustees' Deed No. 23287 for approximately 0.41 acres.

VOTING REQUIREMENT FOR APPROVAL: Three votes

COUNTY: Volusia

APPLICANT: City of Daytona Beach (City)

LOCATION: Section 08, 38 and 39, Township 15 South, Range 33 East

CONSIDERATION: \$100,000, based on an appraisal, to be deposited into the Internal Improvement Trust Fund.

		APPRAISED BY
		Cooksey
<u>PARCEL</u>	<u>ACRES</u>	<u>(1/12/2021)</u>
BOT	0.41	\$100,000*

*Deed Restriction and Reversion Rights

STAFF REMARKS:

Background

On December 4, 2018, the Board of Trustees approved the release of restriction and right of revocation, along with the release of mineral rights contained within several deeds conveyed to the City of Daytona Beach. The deeds all contain deed restrictions that, if violated, cause reversion of the property should the City lease the land for any private use. The purpose of the release was to allow the City to increase redevelopment opportunities on the subject parcels by removing limitations and attract residents and businesses for the benefit of the local economy.

Current Request

Due to funding limitations and a shift in the City's plans for redevelopment, the City has requested to only release the Restriction and Reversion Rights on 0.41 acres of Deed No. 23287.

Deed No. 23287 March 6, 1963: *"shall never sell, convey or lease any part of said land to any private person, firm or corporation, it being the intention hereof that said land shall be used for public purpose only."*

The Department of Environment Protection (DEP) is recommending the Board of Trustees approve the City's request. Should the City desire to pursue future Deed Restriction release(s) and/or Oil and

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Item 1 cont.

Mineral Interest release(s), the request will be considered on their own merits at a regularly scheduled Governor and Cabinet Meeting.

Comprehensive Plan

A local government comprehensive plan has been adopted for this area pursuant to section 163.3167, F.S. The proposed action is consistent with the adopted plan.

(See Attachment 1, Pages 1-20)

RECOMMEND APPROVAL

Item 2 Woodvest, LLC Option Agreement/ Upper St. Marks River Corridor Florida Forever Project

REQUEST: Consideration of an option agreement to acquire approximately 729 acres within the Upper St. Marks River Corridor Florida Forever project from Woodvest, LLC.

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.

COUNTY: Jefferson

LOCATION: Sections 05 through 08, Township 02 South, Range 03 East

CONSIDERATION: \$1,000,000

<u>PARCEL</u>	<u>ACRES</u>	APPRAISED BY		<u>APPROVED VALUE</u>	SELLER'S <u>PURCHASE PRICE</u>	TRUSTEES' <u>PURCHASE PRICE</u>	<u>OPTION DATE</u>
		Carroll (10/13/20)	Griffith (10/13/20)				
Woodvest, LLC	729	\$1,170,000	\$1,130,000	\$1,170,000	\$954,600*	\$1,000,000** (85%)	120 days after BOT approval

*Seller purchased the subject property on 12/7/2016.

**\$1,371.74 per acre.

STAFF REMARKS: The subject property is located within the Upper St. Marks River Florida Forever project, ranked number 4 in the Substantially Complete project category, approved by the Board of Trustees on May 28, 2020. The project contains 15,197 acres, of which 14,581 acres have been acquired or are under agreement to be acquired.

Item 2 cont.

Project Description

Public acquisition of this project will contribute to the Florida Forever goals of protecting Florida’s biodiversity at the species, natural community, and landscape levels, as well as a long-sought and permanent wildlife corridor along the St. Marks River (River). The project forms a corridor of conservation lands to the north and south, thereby helping to form a contiguous landscape-sized protection area. This project is also important to protect water resources within this project and the surrounding area, protect twelve known historic sites, and increase public recreational and education opportunities.

Property Description

The 729-acre property shares its northwestern, western and southern boundaries with the Plank Road State Forest (Forest). If acquired, the property would be part of a conservation corridor that extends from Upper Lake Lafayette in Leon County to Apalachee Bay in Taylor County.

The property is located within the St. Marks River and Apalachee Bay Watershed (Watershed) and the Woodville Karst Plain. The Watershed is an important and complex water system where the surface water and ground water interact due to the limestone bedrock below the region. Keeping the property in its natural and undeveloped state will protect the water resources that flow from the Watershed, to the River, and ultimately into Apalachee Bay.

Preservation of the property will contribute to increased protection of the River by: buffering it from development and preserving its water quality, while also protecting the natural communities in its floodplain, expand the wildlife corridor along the River, secure essential habitat for many native species, including the Florida black bear, and enhance public access and recreational opportunities within the Forest.

Mortgages and Liens/Encumbrances

All mortgages and liens will be satisfied at the time of closing. On June 22, 1999, the Board of Trustees approved a staff recommendation to delegate to the Department of Environmental Protection (DEP) the authority to review and evaluate marketability issues as they arise on all chapter 259, F.S., acquisitions and to resolve them appropriately. Therefore, DEP staff will review, evaluate, and implement an appropriate resolution for these and any other title issues that arise prior to closing.

Closing Information

A title insurance commitment, a survey, and an environmental site assessment will be provided by the purchaser prior to closing. There are two hunting leases that will be terminated prior to closing.

Management

The subject parcel will be managed by the Department of Agriculture and Consumer Services’ Florida Forest Service as part of the Plank Road State Forest.

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Item 2 cont.

Comprehensive Plan

This acquisition is consistent with section 187.201(9), F.S., the Natural Systems and Recreational Lands’ section of the State Comprehensive Plan.

(See Attachment 2, Pages 1-38)

RECOMMEND APPROVAL

Item 3 The Trust for Public Lands Option Agreement/ Wolfe Creek Forest Florida Forever Project

REQUEST: Consideration of (1) an option agreement to acquire approximately 1,786 acres within the Wolfe Creek Forest Florida Forever project from The Trust for Public Land.

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.

COUNTIES: Santa Rosa

LOCATION: Sections 31 and 32, Township 04 North, Range 27 West; Sections 04 through 06, Township 03 North, Range 27 West

CONSIDERATION: \$4,325,692

<u>PARCEL</u>	<u>ACRES</u>	APPRAISED BY		<u>APPROVED</u> <u>VALUE</u>	<u>SELLER’S</u> <u>PURCHASE</u> <u>PRICE</u>	<u>TRUSTEES’</u> <u>PURCHASE</u> <u>PRICE</u>	<u>OPTION</u> <u>DATE</u>
		Griffith (09/22/20)	Marr (09/22/20)				
Kingfisher Timber, LLC	1,786	\$4,465,000	\$4,644,000	\$4,644,000	\$17,138,800*	\$4,325,692** (93%)	120 days after BOT approval

*Seller has the option to acquire the property. Kingfisher Timber, LLC acquired the property March 9, 2017, as part of a larger purchase of 9,392.64 acres.

**\$2,422 per acre. The approved value and purchase price may be adjusted, up or down, based on final surveyed acreage.

STAFF REMARKS: The subject property is located within the Wolfe Creek Forest Florida Forever project, ranked number 23 in the Florida Forever Critical Natural Lands project category, approved by the Board of Trustees on May 28, 2020. The project contains 10,058 acres, of which 3,204 acres have been acquired or are under agreement to be acquired.

Project Description

The Wolfe Creek Forest project is located in central Santa Rosa County, near Milton, between Blackwater River State Forest (Forest) to the east and Whiting Field Naval Air Station (NAS) to the southwest. This

Item 3 cont.

project shares 5.7 miles of its southern boundary with two disjunct tracts of the state forest forming a connection between all three tracts; within it, runs 35 miles of streams that feed into Big Coldwater Creek and Big Juniper Creek, two major tributaries of the Blackwater River. According to the Florida Master Site File, the project has 12 archaeological sites, two of which are historic, including the Wolfe Creek Mill and ten, which are prehistoric.

Most of the project is in various states of managed pine plantation in areas that historically supported upland pine forest and sandhills. There are wetlands that include seepage and blackwater streams and associated bottomland forest, floodplain swamps, and bay galls. The upland natural communities include a few small areas of mesic flatwoods and mesic hammock.

Property Description

The subject property is adjacent to the Forest and has two miles of road frontage along Paul Barnes Road, and is currently utilized as a timber and hunting tract. The headwaters to Wolfe Creek are located in the middle of the subject property, along with several tributaries feeding into Wolfe Creek. It is a pivotal parcel that will begin building a corridor connection from the Forest southward to join NAS and other state-owned conservation lands.

The subject property is part of a large landscape acquisition partnership between the Division of State Lands and others, and acquisitions have been phased. Phase I was a partnership between the State and the Navy and was completed in 2016. Phase II and III were partnerships with Forest Legacy, Santa Rosa County and the Navy and donated to the State for final ownership and management in 2018. Phases I through III consisted of over 3,000 acres of land, totaling a purchase price of over \$7 million with a Florida Forever contribution of just over \$1 million.

This proposed acquisition is referred to as Phase IV-A. Phase IV-B is adjacent to the south boundary of the subject property and is proposed to be also acquired by the partnership of Forest Legacy, Santa Rosa County and the Navy and then donated to the State. The Trust for Public Land (TPL) has negotiated the option for purchase of both properties from Kingfisher Timber, LLC; after closing, the Board of Trustees will purchase the subject property from TPL. TPL has requested Phase IV-A be closed in conjunction with the donation of Phase IV-B (approximately 1,725 acres), almost doubling the acres to be acquired.

Mortgages and Liens

All mortgages and liens will be satisfied at the time of closing. On June 22, 1999, the Board of Trustees approved a staff recommendation to delegate to DEP the authority to review and evaluate marketability issues as they arise on all chapter 259, F.S., acquisitions and to resolve them appropriately. Therefore, DEP will review, evaluate, and implement an appropriate resolution for any title issues that arise prior to closing.

Closing Information

A title insurance policy, survey and environmental site evaluation will be provided by the buyer prior to closing. All hunting leases will be terminated prior to closing

Item 3 cont.

Management

The subject property will be managed by the Department of Agriculture and Consumer Services' Florida Forest Service as an addition to Blackwater River State Forest.

Comprehensive Plan

This acquisition is consistent with section 187.201(9), F.S., the Natural Systems and Recreational Lands' section of the State Comprehensive Plan.

(See Attachment 3, Pages 1-35)

RECOMMEND APPROVAL

Item 4 Aquaculture Lease in Gulf County

REQUEST: Approval to issue a 3-acre, ten-year sovereignty submerged land aquaculture lease to authorize use of the full water column.

VOTING REQUIREMENT FOR APPROVAL: Three votes

LOCATION: Indian Lagoon, Gulf County, Florida

APPLICANTS: William Connor Clark

CONSIDERATION: An annual fee of \$130.38 for the 3-acre lease parcel, representing a base annual rental fee of \$33.46 per acre or fraction thereof; and an annual surcharge of \$10.00 per acre or fraction thereof, pursuant to rule 18-21.022, F.A.C. The annual fee and surcharge collected will be deposited in the General Inspection Trust Fund, pursuant to sections 597.010(5)(b) and (7), F.S.

STAFF REMARKS:

The requested lease parcel is approximately 3 acres in size and is located in the Indian Lagoon in Gulf County. The applicant is requesting authorization from the Board of Trustees, pursuant to section 253.68(1), F.S., for a new aquaculture lease for the purpose of culturing oysters in floating gear using the full water column.

The applicant will be required to apply for an Aquaculture Certificate of Registration and comply with all Department of Agriculture and Consumer Services' (FDACS) Aquaculture Best Management Practices. The proposed lease will be subject to the terms and conditions applied to other aquaculture leases issued throughout the state for the same purposes, including the provision that the transfer or sale of the lease will not be approved during the first five years of the lease term. Upon approval, the lease will be surveyed by the applicant.

Item 4 cont.

Agency Review

FDACS has conducted a resource assessment and determined that the proposed lease and associated aquaculture activities will not result in adverse impacts to seagrasses, existing shellfish beds, natural reefs or other sensitive habitats. The proposed lease is not located in an aquatic preserve. Additionally, FDACS has coordinated review and comments of the proposed lease with the Florida Department of Environmental Protection, the Florida Fish and Wildlife Conservation Commission, the Florida Department of State’s Division of Historical Resources, and the Gulf County Board of County Commissioners, pursuant to rule 18-21.021, F.A.C.

Special Conditions

The proposed lease will be subject to the terms and conditions applied to other aquaculture leases issued throughout the state for the same purposes, including the provision that the transfer or sale of the lease will not be approved during the first five years of the lease terms. The requirement to obtain a permit from the USCG for Private Aids to Navigation will be a special condition of the lease. The proposed leases are located within Gulf Sturgeon critical habitat. Pursuant to FDACS’ Programmatic General Permit (SAJ-99, SAJ-2007-03138) Live Rock and Marine Bivalve Aquaculture in the State of Florida, Special Condition 16; the off-bottom basket methodology is prohibited on new leases within Gulf Sturgeon critical habitat, but the floating basket and suspended basket or longline methodologies are allowed for shellfish aquaculture. The applicant is planning to use the floating basket method for shellfish production, so this activity will be covered under the Programmatic General Permit. The proposed gear is authorized under the FDACS general permit from the Army Corps of Engineers.

Public Interest

The proposed parcel is not in an aquatic preserve; therefore, the activity does not have to be found to be in the public interest. The projects are, however, required to demonstrate that they are “not contrary to the public interest,” pursuant to Article X, Section 11 of the Florida Constitution, chapter 253, F.S., and rule 18-21.004(1)(a), F.A.C. Because the Legislature has declared aquaculture to be in the public interest, according to section 253.68(2)(a), F.S., FDACS is of the opinion that the activities meet the test of being “not contrary to the public interest” and otherwise meet all applicable requirements for a proprietary authorization to use sovereignty submerged lands.

Noticing

The proposed lease was noticed pursuant to section 253.70, F.S. and no objections were received.

Comprehensive Plan

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

(See Attachment 4, Pages 1-25)

RECOMMEND APPROVAL

Item 5 Chapter 18-21, F.A.C., Publication of Proposed Rule and Final Rule Adoption

REQUEST: Request approval for publication of Proposed Rule and for Final Adoption for Rules 18-21.003, 18-21.020 and 18-21.021, Florida Administrative Code (F.A.C.).

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.

COUNTY: Statewide

APPLICANT: Florida Department of Agriculture and Consumer Services (FDACS)

STAFF REMARKS: In accordance with subsection 253.03(7), Florida Statutes (F.S.), FDACS requests the Board of Trustees approve a Notice of Proposed Rule and Final Adoption if no member of the public timely requests a rule hearing or if a hearing is requested and no Notice of Change is needed for the following rules:

18-21.003 Definitions.

The proposed rule amendment defines the terms “Aquaculture Restoration” and “Restoration Organization” and correctly alphabetizes the section.

18-21.020 Aquacultural Activities.

The proposed notice of proposed rule would allow aquaculture restoration activities to be authorized by an aquaculture management agreement.

18-21.021 Applications for Aquacultural Activities.

The proposed notice of proposed rule would allow aquaculture restoration activities to be authorized by an aquaculture management agreement. The Application for a State Owned Sovereignty Submerged Land Aquaculture Lease form (FDACS 15102) is also being updated to reflect this rule change.

(See Attachment 5, Pages 1-5)

RECOMMEND APPROVAL