

AGENDA
BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
June 15, 2021

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

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

Item 1 Bay Shellfish Company Aquaculture Lease

REQUEST: Approval to issue a 3.2-acre, ten-year sovereignty submerged land aquaculture lease to authorize use of the bottom.

VOTING REQUIREMENT FOR APPROVAL: Three votes

LOCATION: Miguel Bay, Manatee County, Florida

APPLICANT: Bay Shellfish Company

CONSIDERATION: An annual fee of \$106.92 for the 3.2-acre lease parcel, representing a base annual rental fee of \$16.73 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 3.2 acres in size and is located in Miguel Bay within Lower Tampa Bay in Manatee 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 shellfish on the bottom.

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.

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 located in the Terra Ceia 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 Manatee County Board of County Commissioners, pursuant to Rule 18-21.021, F.A.C.

Item 1, cont.

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 initial lease term.

Public Interest

The Florida Aquatic Preserve Act provides that no further sale, lease, or transfer of sovereignty submerged lands shall be approved within an aquatic preserve, unless the sale, lease, or transfer is in the public interest. The Aquatic Preserve Act specifically provides that “aquaculture is in the public interest and aquaculture leases may be authorized in aquatic preserves...” [Section 258.42(1)(b), F.S.] Accordingly, FDACS recommends that the Board of Trustees find that the lease is in the public interest, as set forth in statute.

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 1, Pages 1-25)

RECOMMEND APPROVAL

Item 2 BOT Delegation of Authority

REQUEST: Consideration of delegation of authority to the Commissioner of Agriculture, or her designee, to renew aquaculture leases for additional ten-year terms, on behalf of the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees), provided (a) the Board of Trustees has previously approved the use of the parcel for a specific aquaculture purposes; (b) the terms and conditions of the lease agreement are not substantially altered and (c) the requested action is not determined to be controversial or of heightened public concern.

VOTING REQUIREMENT FOR APPROVAL: Three votes

LOCATION: Statewide

Item 2, cont.

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

STAFF REMARKS:

The Division of Aquaculture (Division) serves as staff to the Board of Trustees for the state's aquaculture program. The Board of Trustees has previously delegated authority to the Division to manage the program on a day-to-day basis. Previously, when the Board of Trustees has approved new aquaculture leases, it has issued a ten-year lease, with renewals for two successive ten-year terms. Over the next two years, the Department expects to receive requests for renewal for a fourth term for a number of the original leases issued in the early 1990's.

In an effort to improve government efficiency, reduce staff time and shorten the application process for renewals, the Division is requesting a clarification in its delegation of authority that would allow the Department to renew aquaculture leases for successive terms when the leaseholders are in compliance with their lease agreement and the renewed lease agreement includes substantially the same terms and conditions as the existing lease agreement. Requests for new leasing areas, renewals that include substantial changes from the original lease agreement, or renewals that are determined to be of heightened public interest will continue to be brought before the Board of Trustees for consideration.

In addition to removing an existing layer of government bureaucracy, the requested delegation will help to provide Florida's marine aquaculture producers with a stable business planning landscape, particularly important given their planting and production cycle can take several years.

To ensure that the state provides responsible policy to foster aquaculture development on sovereignty submerged lands, the Department requests that the Board of Trustees delegate authority to the Department to renew existing aquaculture leases, provided: a) the Board of Trustees has previously approved the use of the parcel for a specific aquaculture purpose; b) the specific purpose will not change substantially; c) the terms and conditions of the lease agreements are not substantially altered and d) the requested action is not determined to be controversial or of heightened public concern.

The renewal provision in aquaculture lease agreements currently reads: "If requested by Lessee, this lease may be renewable for additional ten-year terms upon such terms and conditions as are acceptable to the parties hereto. The request must be in writing and delivered by the Lessee to the Lessor no later than 90 days before the expiration date of the then existing lease agreement. Upon receipt of the request for an additional term, the Department will either take final action on behalf of the Board of Trustees where the circumstances meet the delegation provided to the Department by the Board or the Department will submit the Lessee's request for an additional term to the Board of Trustees for final action."

Item 2, cont.

The specific statutory directive and supporting administrative code are currently in place and relevant to this request; no amendment to Florida Statutes or Florida Administrative Code will be required to implement the requested change in policy and delegation.

Public Interest

The Florida Aquatic Preserve Act provides that no further sale, lease, or transfer of sovereignty submerged lands shall be approved within an aquatic preserve, unless the sale, lease, or transfer is in the public interest. The Aquatic Preserve Act specifically provides that “aquaculture is in the public interest and aquaculture leases may be authorized in aquatic preserves...” [Section 258.42(1)(b), F.S.] Accordingly, the Department recommends that the Board of Trustees find that the lease is in the public interest, as set forth in statute.

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.

RECOMMEND APPROVAL
