

Florida Communities Trust Meeting Agenda

Date: February 16, 2022

Time: 10:00 AM

Location:

Physical Department of Environmental Protection
Douglas Building
3900 Commonwealth Boulevard, Tallahassee, FL 32399
Conference Room 137

Virtual GoToWebinar:
<https://attendee.gotowebinar.com/register/5972873037832399629>
Webinar ID: 188-887-995
Conference Call Number: 1 (415) 655-0060
Access Code: 960-007-285

*You must register before meeting start time in order to call in.

Information

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| <u>ITEM 1:</u> | Call to Order | Chair Gambineri |
| <u>ITEM 2:</u> | Upcoming Fiscal Year 2022-2023 Board Meeting Dates | Chair Gambineri |

Action

- | | | |
|-----------------------|---|------------------------|
| <u>ITEM 3:</u> | Consider the July 27, 2021 and December 7, 2021 Meeting Summaries | Chair Gambineri |
| <u>ITEM 4:</u> | Consider City of Fellsmere Request for Extension of Grant Agreement, Tract B, FCT# 18-011-FF19 | Rita Ventry |
| <u>ITEM 5:</u> | Consider Lake County Request for Approval to Transfer a Portion of Lake May Reserve to Friends of Wekiva River, Lake May Reserve, FCT# 11-007-FF11 | Lois La Seur |

ITEM 6: Request by Miami-Dade County for FCT Approval of an Amendment to an Agreement to Certify FCT Lands in Biscayne Coastal Wetlands, Tract A, FCT# 98-023-P8A for the Comprehensive Everglades Restoration Program (CERP)

Bill Bibby

ITEM 7: Consider City of Port Orange Request for Land Exchange, Town Center Marcantonio Property, FCT# 02-094-FF2

Rita Ventry

ITEM 8: Public Comment

Chair Gambineri

Adjourn

Information

ITEM 1: Call to Order

Chair Gambineri

FCT Board Members:

Greg Jones (Representative of the development industry)
Deborah Denys (Former elected official of a county government)
Frank Mingo (Former elected official of a metropolitan municipal government)
Noah Valenstein (Representative of a nonprofit organization)

FCT Staff:

Rebecca Wood (Program Manager)
Linda Reeves (Operations Manager)
Lois La Seur (Senior Attorney)
Marjorie Karter (Bureau of Real Estate Services)
Rachel Crum, (Bureau of Real Estate Services)
William McMahon (Planner, Region 1)
Bill Bibby (Planner, Region 2)
Rita Ventry (Planner, Region 3)
Melanie Orozco, (Division of State Lands)

Division of State Lands Staff:

Callie DeHaven, Director
Andy Fleener, Deputy Director

ITEM 2: Upcoming Fiscal Year 2022-2023 Board Meeting Dates

Chair Gambineri

Fiscal Year 2022-2023 Meeting Dates:

- **August 10, 2022**
- **December 14, 2022**
- **February 15, 2023**
- **May 17, 2023**

Please check your calendars for conflicts with these dates. We will bring them as an action item at the April board meeting.

Action

ITEM 3: Consider the July 27, 2021 and December 7, 2021 Meeting Summaries

Chair

STAFF RECOMMENDATION: Approve the July 27, 2021 and December 7, 2021, Meeting Summaries

FCT GOVERNING BOARD ACTION: MOTION AND VOTE

- APPROVE**
- APPROVE WITH MODIFICATIONS:**
- DEFER**
- WITHDRAW**
- NOT APPROVE**
- OTHER:**

Motion by:

Second by:

**FLORIDA COMMUNITIES TRUST GOVERNING BOARD
RANKING & SELECTION MEETING SUMMARY
JULY 27, 2021**

MEMBERS PRESENT

Callie DeHaven, Director, Division of State Lands, Chair (in-person); Greg Jones, Deborah Denys, Frank Mingo (virtual via GoToWebinar).

OTHERS PRESENT

Rebecca Wood (Program Manager)
Linda Reeves (Operations Manager)
Lois LaSeur (Senior Attorney)
Marjorie Karter (Bureau of Real Estate Services)
William McMahon (Planner, Region 1)
Bill Bibby (Planner, Region 2)
Rita Ventry (Planner, Region 3)
Andrew Fleener (Assistant Director of State Lands)
Jay Scott (Chief of DSL's Bureau of Appraisal)

VIRTUAL VIA GOTOWEBINAR

Tammy Odierna, Pasco County; Ryan Mauch, St. Johns County; Vince Gizzi, City of Dunedin, Mr. Duggan Cooley, CEO of the Pinellas Community Foundation; Mr. Paul Cozzie, Pinellas County; Mr. Todd DeAngelis, City of Parkland; Mike Middlebrook, St. Lucie County; Rafael Casals, Town of Cutler Bay; Amy Jewel, City of Mount Dora; Stephanie Holtkamp, City of St Cloud; Michael O'Dell, Village of Wellington; Kurt Gremley, Hillsborough County.

CALL TO ORDER

Chair DeHaven called the July 27, 2021, meeting of the Florida Communities Trust Governing Board to order at 10:00 AM.

WELCOME AND INTRODUCTIONS

Chair DeHaven welcomed those present and introduced the Board members and FCT Staff. Chair DeHaven recognized a quorum was present. Linda Reeves followed with the presentation of Meeting Instructions.

INFORMATIONAL ITEM

Item 1: Meeting Parameters

Bill Bibby presented the Meeting parameters, detailing the proper procedure for this meeting.

No comments or discussion.

ACTION ITEMS

Item 2: Application and Evaluation Report Review, Application Scoring Consideration, Ranking and Selection of Projects for Funding, and Contingent Funding.

Presentation by FCT Staff. Bill Bibby presented the first five projects, followed by William McMahon presenting the next five, and Rita Ventry presenting the final six.

PROJECT 20-001-FF21, GRACE AND TRUTH CORRIDOR CAPSTONE.
APPLICANT- PASCO COUNTY

Project introduced by Bill Bibby. Applicant presentation for project excellence by Ms. Tammy Odierna, Acquisition Coordinator for Pasco County Parks, Recreation and Natural Resources Department.

Greg Jones made a comment directed at new Board Members in terms of what he looks at when awarding excellence points. There were no further comments or questions.

Motion by: **Greg Jones to accept staff recommended score of 138 points plus 6 project excellence points (144).**

Second by: **Frank Mingo.**

No comments or questions.

The motion passed unanimously.

- APPROVE**
- APPROVE WITH MODIFICATIONS:**
- WITHDRAW**
- NOT APPROVE**
- OTHER:**

PROJECT 20-002-FF21, WEST KLOSTERMAN PRESERVE. APPLICANT- WK PRESERVATION GROUP INC.

Project introduced by Bill Bibby. Application was withdrawn by the applicant.

PROJECT 20-003-FF21, McCULLOUGH CREEK CONSERVATION AREA. APPLICANT- ST. JOHNS COUNTY

Project introduced by Bill Bibby. Applicant presentation by Mr. Ryan Mauch, Environmental Supervisor for St. Johns County. Mr. Mauch first presented the County's objections to the preliminary staff score.

There was a comment by Greg Jones in which he stated his appreciation of staff diligence in the grading of these applications, and that he typically defers to the staff recommendation in terms of objections when they are considered. He further clarified that comment was directed towards Mr. Mauch so that he may understand his reasoning behind the motion to uphold the staff recommended score.

Motion by: **Greg Jones to accept staff recommended score of 114 points.**

Second by: **Frank Mingo.**

No comments or questions.

The motion passed unanimously.

- APPROVE**
- APPROVE WITH MODIFICATIONS:**
- WITHDRAW**
- NOT APPROVE**
- OTHER:**

Mr. Mauch then presented to the Board on project excellence.

Greg Jones asked about the property that runs between the two parcels. Mr. Mauch said this property is an Army Corps of Engineers Conservation Easement. Once contiguousness was established, Greg Jones thanked Mr. Mauch for his answer.

Motion by: **Chair DeHaven to accept staff recommended score of 114 points.**

Second by: **Frank Mingo.**

The motion passed unanimously.

- APPROVE**
- APPROVE WITH MODIFICATIONS:**
- WITHDRAW**
- NOT APPROVE**
- OTHER:**

PROJECT 20-004-FF21, GLADYS DOUGLAS HACKWORTH PROPERTY ACQUISITION.
APPLICANTS- CITY OF DUNEDIN AND PINELLAS COUNTY

Project introduced by Bill Bibby. Applicant presentation for project excellence by Mr. Vince Gizzi, Recreation Director for the City of Dunedin, Mr. Duggan Cooley, CEO of the Pinellas Community Foundation and Mr. Paul Cozzie, Director of Pinellas County Parks and Conservation Resources.

Chair DeHaven made a comment that she was pleased to see all of the letters of support and the legislative intent aspect of this application.

Greg Jones made a comment acknowledging the individual donations, the natural resources located within the site, as well as the regional coordination. Greg says it has hit every parameter for the intent of this program.

Motion by: Greg Jones to accept staff recommended score of 152 points plus 10 project excellence points (162).

Second by: Deborah Denys.

No comments or questions.

The motion passed unanimously.

- APPROVE**
- APPROVE WITH MODIFICATIONS:**
- WITHDRAW**
- NOT APPROVE**
- OTHER:**

PROJECT 20-005-FF21, 36 ACRE PARK.
APPLICANT- CITY OF PARKLAND

Project introduced by Bill Bibby. Applicant presentation for project excellence by Mr. Todd DeAngelis, Communications Director and Public Information Officer for the City of Parkland.

Greg Jones had a question regarding the Comprehensive Plan and a policy as it relates to City in providing, at a minimum, 5 acres of park recreation and open space per 1,000 of the City's population – how has the City worked to enforce this policy? The City Manager for Parkland, Nancy Morando, stated this Park behind their application is mandatory in upholding this City policy. The City Manager said there was very little open space available to conserve. No further questions.

Motion by: Greg Jones to accept staff recommended score of 130 points plus 5 project excellence points (135).

Second by: Frank Mingo.

No comments or questions.

The motion passed unanimously.

- APPROVE**
- APPROVE WITH MODIFICATIONS:**
- WITHDRAW**
- NOT APPROVE**
- OTHER:**

PROJECT 20-006-FF21, SAVANNAS GREENWAY TRAILHEAD.
APPLICANT- ST. LUCIE COUNTY

Project introduced by William McMahan. Applicant presentation for project excellence by Mr. Mike Middlebrook, Assistant Director of the Environmental Resources Department, St. Lucie County.

No comments or questions.

Motion by: Callie DeHaven to accept staff recommended score of 128 points.

Second by: Frank Mingo.

Mr. Middlebrook asked for clarification as to whether the vote was including project excellence points. Chair DeHaven clarified that there was no motion for the

awarding of project excellence points. Mr. Middlebrook thanked Chair DeHaven. There were no further questions.

The motion passed unanimously.

- APPROVE
- APPROVE WITH MODIFICATIONS:
- WITHDRAW
- NOT APPROVE
- OTHER:

PROJECT 20-007-FF21, RESILIENCY PARK.
APPLICANT- VILLAGE OF KEY BISCAYNE

Project introduced by William McMahon. There was no applicant presentation for project excellence.

No comments or questions.

Motion by: **Greg Jones to accept staff recommended score of 110 points.**

Second by: **Frank Mingo.**

No comments or questions.

The motion passed unanimously.

- APPROVE
- APPROVE WITH MODIFICATIONS:
- WITHDRAW
- NOT APPROVE
- OTHER:

PROJECT 20-008-FF21, BUFFER LAND ACQUISITION.
APPLICANT- TOWN OF CUTLER BAY

Project introduced by William McMahon. Applicant presentation for project excellence by Mr. Rafael Casals, Town Manager for the Town of Cutler Bay.

Greg Jones requested to return to the abutting parcels slide. Greg Jones asked about residential parcels represented in the images on Cutler Bay's slideshow, the zoning classification and their relation to the applicant's parcels.

Greg Jones thanked Mr. Casals for the clarification in regard to the land uses surrounding the project. No further questions.

Motion by: Chair DeHaven to accept staff recommended score of 128 points.

Second by: Greg Jones.

No comments or questions.

The motion passed unanimously.

- APPROVE**
- APPROVE WITH MODIFICATIONS:**
- WITHDRAW**
- NOT APPROVE**
- OTHER:**

PROJECT 20-009-FF21, PLANTATION TROPICAL PRESERVE.
APPLICANT- ISLAMORADA, VILLAGE OF ISLANDS

Project introduced by William McMahon. There was no applicant presentation for project excellence.

No comments or questions.

Motion by: Greg Jones to accept staff recommended score of 61 points.

Second by: Frank Mingo.

No comments or questions.

The motion passed unanimously.

- APPROVE**
- APPROVE WITH MODIFICATIONS:**
- WITHDRAW**
- NOT APPROVE**
- OTHER:**

PROJECT 20-010-FF21, LILY STREET PARK ACQUISITION.
APPLICANT- CITY OF ATLANTIC BEACH

Project introduced by William McMahon, including the amending of the application to remove the development elements from the City's application. William McMahon introduced the new score (76 pts) after the application was re-graded by FCT staff. There was no applicant presentation for project excellence.

No comments or questions.

Motion by: **Greg Jones to accept staff recommended score of 76 points.**

Second by: **Frank Mingo.**

No comments or questions.

The motion passed unanimously.

- APPROVE**
- APPROVE WITH MODIFICATIONS:**
- WITHDRAW**
- NOT APPROVE**
- OTHER:**

PROJECT 20-011-FF21, FRANK BROWN PARK.
APPLICANT- CITY OF MOUNT DORA

Project introduced by Rita Ventry. Applicant presentation for project excellence by Ms. Amy Jewel, Leisure Services Director for the City of Mount Dora.

Greg Jones had a question about stormwater and flooding, and how the City is planning to address future challenges to parks in this regard. Ms. Jewel said the City takes stormwater concerns into consideration, in terms of water relocation. Greg Jones then directed a question to FCT Staff in terms of how the application was graded in regard to stormwater. Rebecca Wood answered Greg Jones, stating the application is graded by the criteria as they [the City] answer it. Greg then asked a further question about the rest of the parks the City owns and manages. Are there any other parks being considered in the Historic Northeast Community? Ms. Jewel answered that this park would meet the City's need of two more acres of open space. It would further meet the needs of the recreational aspects of the City's Comprehensive Plan. Greg Jones thanked Ms. Jewel for her responses. There were no further questions.

Motion by: **Chair DeHaven to accept staff recommended score of 120 points.**

Second by: **Greg Jones.**

No comments or questions.

The motion passed unanimously.

- APPROVE**
- APPROVE WITH MODIFICATIONS:**
- WITHDRAW**
- NOT APPROVE**
- OTHER:**

PROJECT 20-012-FF21, CARTER WOODSON PARK.
APPLICANT- CITY OF OAKLAND PARK

Project introduced by Rita Ventry. There was no applicant presentation for project excellence.

No comments or questions.

Motion by: **Greg Jones to accept staff recommended score of 92 points.**

Second by: **Frank Mingo.**

No comments or questions.

The motion passed unanimously.

- APPROVE**
- APPROVE WITH MODIFICATIONS:**
- WITHDRAW**
- NOT APPROVE**
- OTHER:**

PROJECT 20-013-FF21, HASTINGS RANCH.
APPLICANT- CITY OF ST. CLOUD

Project introduced by Rita Ventry. Applicant presentation for project excellence by Ms. Stephanie Holtkamp, Director of Parks and Recreation for the City of St. Cloud.

No comments or questions.

Motion by: **Frank Mingo to accept staff recommended score of 126 points.**

Second by: **Deborah Denys.**

No comments or questions.

The motion passed unanimously.

- APPROVE**
- APPROVE WITH MODIFICATIONS:**
- WITHDRAW**
- NOT APPROVE**
- OTHER:**

PROJECT 20-014-FF21, WELLINGTON ENVIRONMENTAL PRESERVE.
APPLICANT- VILLAGE OF WELLINGTON

Project introduced by Rita Ventry. Applicant presentation for project excellence by Mr. Michael O'Dell, Assistant Director of Planning & Zoning from the Village of Wellington.

No comments or questions.

Motion by: **Frank Mingo to accept staff recommended score of 124 points plus 5 project excellence points (129).**

Second by: **Chair DeHaven.**

No comments or questions.

The motion passed unanimously.

- APPROVE**
- APPROVE WITH MODIFICATIONS:**
- WITHDRAW**
- NOT APPROVE**
- OTHER:**

PROJECT 20-015-FF21, ROCKY CREEK TRAILS, PHASE TWO.
APPLICANT- HILLSBOROUGH COUNTY

Project introduced by Rita Ventry. Applicant presentation for project excellence by Mr. Kurt Gremley, Acquisition Manager for The Hillsborough County Environmental Lands Acquisition and Protection Program (ELAPP).

No comments or questions.

Motion by: **Greg Jones to accept staff recommended score of 156 points.**

Second by: **Deborah Denys.**

No comments or questions.

The motion passed unanimously.

- APPROVE**
- APPROVE WITH MODIFICATIONS:**
- WITHDRAW**
- NOT APPROVE**
- OTHER:**

PROJECT 20-016-FF21, NORTH SPRINGS IMPROVEMENT DISTRICT LAND ACQUISITION AND CONSERVATION PROJECT.

APPLICANT- NORTH SPRINGS IMPROVEMENT DISTRICT

Project introduced by Rita Ventry. Applicant presentation by Dr. Paul Indeglia, consultant for the North Springs Improvement District. Dr. Indeglia first presented NSID's objections to the preliminary staff score.

Motion by: **Greg Jones to accept staff recommended score of 122 points.**

Second by: **Deborah Denys.**

No comments or questions.

The motion passed unanimously.

- APPROVE**
- APPROVE WITH MODIFICATIONS:**
- WITHDRAW**
- NOT APPROVE**
- OTHER:**

Dr. Indeglia then presented to the Board on project excellence.

No comments or questions.

Motion by: **Chair DeHaven to accept staff recommended score of 122 points.**

Second by: **Frank Mingo.**

The motion passed unanimously.

- APPROVE**

- APPROVE WITH MODIFICATIONS:
- WITHDRAW
- NOT APPROVE
- OTHER:

Chair DeHaven proposed a temporary adjournment so that FCT staff may make calculations for a preliminary ranking list and so that staff may make copies for all attendants.

Motion by: **Greg Jones** to temporarily adjourn for 20 minutes, to reconvene at 12:25PM.

Second by: **Frank Mingo**.

The motion passed unanimously.

- APPROVE
- APPROVE WITH MODIFICATIONS:
- WITHDRAW
- NOT APPROVE
- OTHER:

ADJOURNMENT.

Chair DeHaven reconvened the meeting at 12:25PM. Everyone in attendance was handed the new preliminary score lists as it was also displayed on the PowerPoint for all in virtual attendance. The new priority list reflected the project excellence points added. Chair DeHaven called for a motion to approve the new PRELIMINARY Priority Funding List for FY 2020-21.

Motion by: **Frank Mingo** to accept the changes and approve the new PRELIMINARY Priority Funding List for FY 2020-21.

Second by: **Greg Jones**.

The motion passed unanimously.

- APPROVE
- APPROVE WITH MODIFICATIONS:
- WITHDRAW
- NOT APPROVE
- OTHER:

Item 3: Public Comment

No comments or questions.

ADJOURNMENT

Motion by: **Greg Jones to adjourn the meeting.**

Second by: **Frank Mingo.**

No comments or questions.

The motion passed unanimously.

- APPROVE**
- APPROVE WITH MODIFICATIONS:**
- WITHDRAW**
- NOT APPROVE**
- OTHER:**

Chair DeHaven adjourned the meeting at 12:31PM.

**FLORIDA COMMUNITIES TRUST GOVERNING BOARD
STAN MAYFIELD WORKING WATERFRONTS
RANKING & SELECTION MEETING SUMMARY
DECEMBER 7, 2021**

MEMBERS PRESENT

Mara Gambineri (Chair), Noah Valenstein (both via in-person);
Deborah Denys, Frank Mingo (both virtual via GoToWebinar).

STAFF PRESENT

Rebecca Wood (Program Manager); Linda Reeves (Operations Manager); Lois La Seur (Senior Attorney); Marjorie Karter (Bureau of Real Estate Services); Rachel Crum (Bureau of Real Estate Services); William McMahon (Planner, Region 1); Bill Bibby (Planner, Region 2); Rita Ventry (Planner, Region 3); Melanie Orozco, (Division of State Lands); Callie DeHaven (Director of State Lands); Andrew Fleener (Assistant Director of State Lands); Deborah Burr (Office of Environmental Services)

OTHERS PRESENT

Kimberly Buchheit, Buchheit Assoc. Inc.; Sid Bigham, Berger Singerman LLP;
Valerie Anderson, Friends of Split Oak Forest

VIRTUAL VIA GOTOWEBINAR

Ulises Perdomo, Islamorada Working Waterfront, Inc.; Christina Vaeth,
Islamorada Working Waterfront, Inc.; Simone James, (Division of State Lands);
Shauna Allen, (Division of State Lands)

CALL TO ORDER

Chair Gambineri called the December 7, 2021, meeting of the Florida Communities Trust Governing Board to order at 10:00 AM.

WELCOME AND INTRODUCTIONS

Chair Gambineri welcomed those present and introduced Board members and FCT Staff. Chair Gambineri recognized a quorum was present. Rita Ventry followed the welcome and introductions with meeting instructions.

MEETING INSTRUCTIONS

Presentation by Rita Ventry on housekeeping rules and instructions for webinar and public testimony.

INFORMATIONAL ITEM

Item 1: Stan Mayfield Working Waterfronts (SMWW) Program Overview

William McMahon presented the program overview, provided background information on the program, its history and purpose.

ACTION ITEMS

Item 2: Consider Preliminary Scoring and Evaluation Reports of FY2021-2022 SMWW applications, Preliminary Ranking List Consideration & Approval

The one (1) eligible applicant project was introduced by Bill Bibby. Mr. Bibby presented the project, provided staff remarks and additional information. Applicant presentation by Mr. Ulises Perdomo, Islamorada Working Waterfront, Inc.

No comments or questions.

Motion by: **Noah Valenstein to approve the FY2021-2022 Stan Mayfield Working Waterfront Grant Application Cycle PRELIMINARY Priority Funding List for consideration by the Board of Trustees.**

Second by: **Deborah Denys.**

No comments or questions.

The motion passed unanimously.

- APPROVE**
- APPROVE WITH MODIFICATIONS:**
- WITHDRAW**
- NOT APPROVE**
- OTHER:**

Item 3: Public Comment

Chair Gambineri opened the meeting to public comment.

No comments or questions.

ADJOURNMENT

Motion by: **Frank Mingo to adjourn the meeting.**

Second by: **Noah Valenstein.**

No comments or questions.

The motion passed unanimously.

- APPROVE**
- APPROVE WITH MODIFICATIONS:**
- WITHDRAW**
- NOT APPROVE**
- OTHER:**

Chair Gambineri adjourned the meeting at 10:18AM.

ITEM 4: Consider City of Fellsmere Request for Extension of Grant Agreement, Tract B, FCT# 18-011-FF19

Rita Ventry

FCT #	Project Name	Applicant Name	Acres	FCT Award Amount	Match Amount	Total Project Costs
18-011-FF19	Tract B	City of Fellsmere	334	\$2,415,763.79	\$268,417.21	\$2,684,181.00

STAFF REMARKS:

The City of Fellsmere has requested an amendment to extend their grant agreement for one additional year. The current grant agreement expires March 9, 2022. Additional time is needed to finalize due diligence documents for this project. Staff is requesting Board approval of a one-year extension to end on March 9, 2023.

STAFF RECOMMENDATION: Approve extension of agreement

FCT GOVERNING BOARD ACTION: MOTION AND VOTE

- APPROVE**
- APPROVE WITH MODIFICATIONS:**
- WITHDRAW**
- NOT APPROVE**
- OTHER:**

Motion by:

Second by:

ITEM 5: Consider Lake County Request for Approval to Transfer a Portion of Lake May Reserve to Friends of Wekiva River, Lake May Reserve, FCT# 11-007-FF11

Lois La Seur

STAFF REMARKS: As part of the 2011 grant cycle, Lake County purchased the Lake May Reserve with a grant from the Florida Communities Trust (11-007-FF11). On December 1, 2020, Lake County deeded a small portion of the site to the Elaine Berol Taylor and Scott Bevan Taylor Foundation (Foundation). Although the county conveyed a portion of the site to the Foundation, the county retained management of the entire site. The county subsequently provided the documentation of the transfer to FCT staff for review.

After reviewing the documentation Lake County provided, FCT staff determined that the Foundation did not meet the definition of a nonprofit environmental organization entitled to hold property purchased with FCT funding under section 380.503(5), F.S. That section allows FCT to assist nonprofit organizations that have “among [their] principal goals the conservation of natural resources or protection of the environment.” As the documents creating the foundation did not include provisions making environmental protection or conservation one of its principal goals, the FCT informed Lake County that they were out of compliance with their grant agreement and asked them to present, within 30 days, a plan to come back in compliance. FCT staff indicated that the county could meet this goal by demonstrating that the foundation did have conservation as one of its principal goals, by resuming ownership of the property, or by conveying the property to a nonprofit organization that met the statutory definition.

Within the deadline, Lake County presented a plan to convey a portion of the property to the Friends of the Wekiva River (FOWR) and presented the governing documents showing that the FOWR had protection of the environment as a principal goal. The county provided a letter from FOWR agreeing to accept the conveyance.

Meanwhile, FCT staff had received several letters in opposition to the transfer. These letters indicated that the transfer was intended to prevent the annexation of land into the City of Eustis across a county-owned property as permitted by state law. Because the property no longer belonged to the county, under state law the land proposed for annexation was no longer considered contiguous and the annexation was no longer viable. FCT staff was informed that the parties seeking the annexation were pursuing legal action against Lake County with the property transfer as part of the lawsuit. As the proposed transfer was controversial, FCT staff indicated to Lake County that the proposed transfer would be subject to approval by the FCT board. At that time, the FCT board did not have a quorum, so approval of the proposed transfer was delayed until that could be corrected.

Lake County is proposing to transfer ownership of a portion of the Lake May Reserve to the Friends of the Wekiva River, a non-profit environmental organization recognized as charitable pursuant to section 501(c)(3) of the Internal Revenue Code. The Friends of the Wekiva River have agreed to accept the transfer of the property and have agreed to the same covenants and restrictions currently in place on the property. Lake County has

provided a draft deed transferring their interest in the property, imposing the restrictions of the FCT grant agreement, and containing a reversionary clause to the Board of Trustees of the Internal Improvement Trust Fund. They have also provided a draft management agreement whereby Lake County will continue to manage the site within the existing management plan for Lake May Reserve.

ANALYSIS:

As part of the grant agreement and the restrictive covenants on FCT properties, grantees agree that any transfer of title to the property is subject to approval by FCT. By transferring the property without obtaining prior approval from FCT, the county violated their grant agreement and the restrictive covenants on the property. When informed that the transfer did not meet the requirements of the program, Lake County immediately agreed to remedy the violation and provided an acceptable alternative within the deadline established by the FCT staff.

The statutes and rules governing FCT's grant program do not consider the reasons for a proposed transfer or why a grantee might wish to transfer ownership of their property. The only consideration addressed by the statute and rules is that the new owner of the property is eligible to own property funded through the FCT, agrees to the appropriate covenants and restrictions on the property, and the deed transferring the property is approved by the FCT. Lake County has met these conditions.

STAFF RECOMMENDATION: Approve Lake County's transfer of a portion of the Lake May Reserve to the Friends of the Wekiva River.

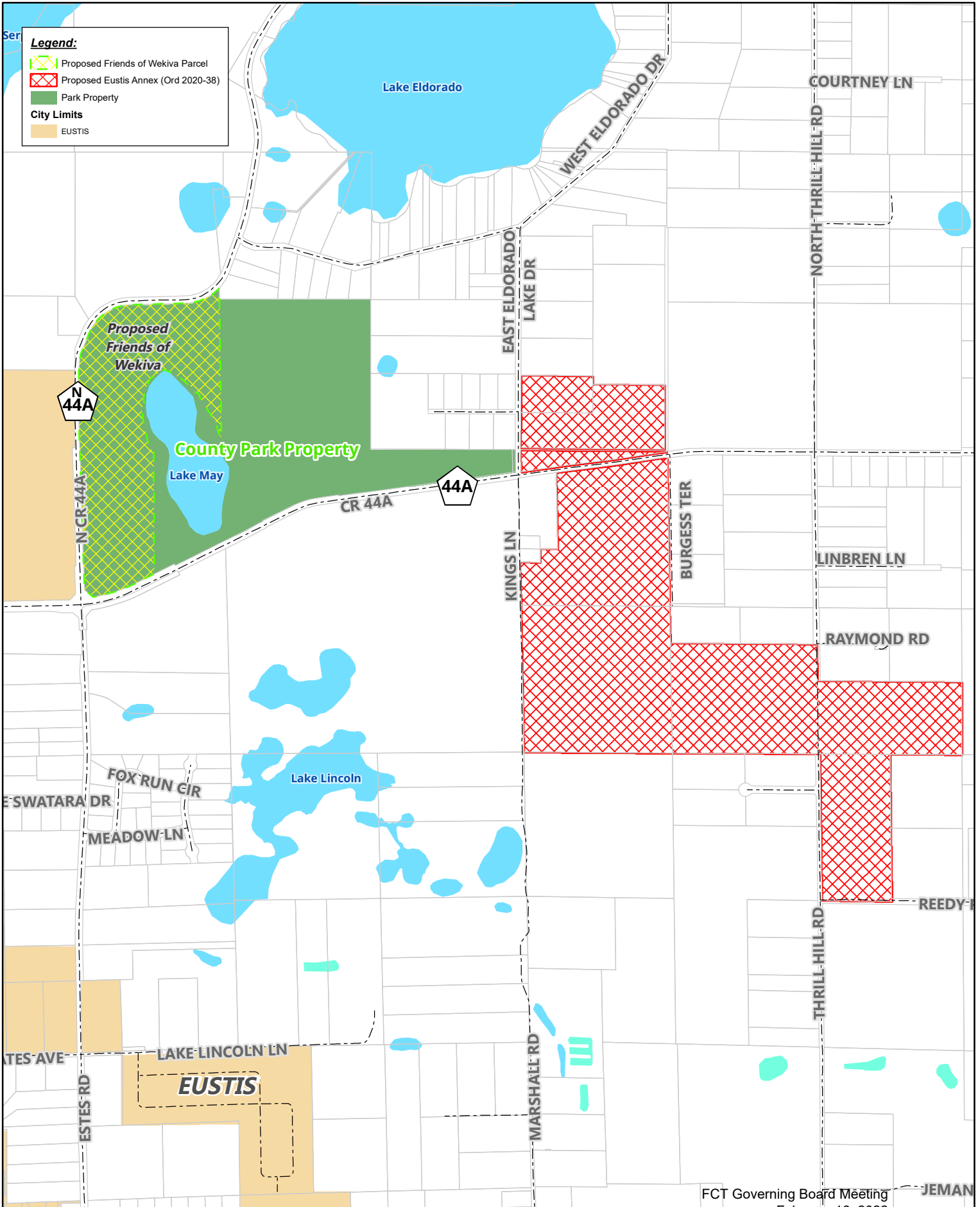
FCT GOVERNING BOARD ACTION: MOTION AND VOTE

- APPROVE**
- APPROVE WITH MODIFICATIONS:**
- DEFER**
- WITHDRAW**
- NOT APPROVE**
- OTHER:**

Motion by:

Second by:

Proposed Eustis Annex Contiguous to Park



February 23, 2021

Melanie Marsh
County Attorney, Lake County
315 W. Main Street, Ste. 335
Tavares, FL 32778

Via certified mail and email: mmarsh@lakecountyfl.gov

Ms. Marsh:

The Florida Communities Trust (“FCT”) has received Lake County’s after-the-fact request to transfer ownership of a strip of land in the Lake May Preserve to the Elaine Berol Taylor and Scott Bevan Taylor Foundation (“Foundation”).

Grants under the auspices of the Florida Communities Trust are governed by the provisions of Chapter 380, Part III, Florida Statutes. Section 380.502(3)(b) states that the intent of the program is to provide “financial and technical assistance to local governments, state agencies, and nonprofit organizations” to carry out the purposes of the program. Section 380.503(5) defines a nonprofit organization as “any private nonprofit organization, existing under the provisions of §501(c)(3) of the United States Internal Revenue Code, which has among its principal goals the conservation of natural resources or protection of the environment” (emphasis added).

Based on the documents provided by the county, the Foundation may, within the trustee’s sole discretion, pursue any activities recognized by the Internal Revenue Service as charitable. There is nothing in the documents creating the trust that requires the trustee to promote conservation of natural resources or protection of the environment or makes these activities a principal goal of the trust. Under these circumstances, the Foundation would not meet the definition of an eligible applicant for FCT funds or qualify for ownership of FCT-funded property. Based on the information currently available to the FCT staff, the county has violated the covenants and restrictions on the property by conveying a portion of the Preserve to a non-eligible recipient.

Based on the above, the county has several options. If the Foundation does have conservation of natural resources or protection of the environment as one of its

principal goals, then you should provide evidence of that to the FCT staff. If not, the county may choose another nonprofit organization that does meet those requirements to take ownership of the property. FCT would need to approve the instrument that transfers ownership, and the nonprofit would need to enter a contract with the FCT and record covenants and restrictions similar to those currently on the property. Alternatively, the county may choose to pursue a land exchange under Rule 62-818.016, Florida Administrative Code. Any of these options will bring the county back into compliance with the grant agreement and the covenants and restrictions on the property.

As I am sure you are aware, the covenants and restrictions on the site provide that if the county violates those restrictions, the site reverts to the Board of Trustees of the Internal Improvement Trust Fund. Thus, it is critical that the county provide the FCT with a plan to bring this grant back in compliance. Please let us know how you plan to proceed within the next 30 days.

Respectfully,

A handwritten signature in cursive script that reads "Rebecca S. Wood".

Rebecca S. Wood
Program Manager



COUNTY ATTORNEY'S OFFICE

DAVID LANGLEY
Assistant County Attorney
dlangley@lakecountyfl.gov

MELANIE MARSH*
County Attorney
mmarsh@lakecountyfl.gov

NICOLE M. BLUMENAUER
Assistant County Attorney
nblumenauer@lakecountyfl.gov

**Board Certification in City, County and Local Government Law*

March 12, 2021

Rebecca S. Wood
Program Manager
Florida Department of
Environmental Protection
Marjory Stoneman Douglas Building
3900 Commonwealth Blvd.
Tallahassee, FL 32399

RE: Lake May Reserve; Partial Conveyance to Non-Profit

Ms. Wood:

In response to your letter dated February 23, 2021, the Lake County Board of County Commissioners voted on March 9, 2021, to submit an alternative entity to FDEP for consideration. Please see attached letter of interest from the Friends of the Wekiva River, Inc. ("FOWR") which was founded in 1978, chartered in 1982 and is a 501(c)(3) nonprofit corporation. One of the main objectives of this entity is to protect the integrity of the Wekiva River Basin. Also included with this correspondence is a copy of the Articles of Incorporation, Bylaws and IRS 501(c)(3) exemption letter for FOWR.

If this entity is acceptable to FDEP, Lake County will work with FOWR and the Taylor Foundation to effectuate a transfer between the two entities. We will also stand ready, willing and able to assist FDEP and FOWR with the processing of any other documents needed to complete the transaction in accordance with the FCT program requirements and grant agreement.

Also, I received a copy of a letter dated March 5, 2021, directed to Mr. Justin Wolfe, submitted by attorney Samuel Miller from Akerman LLP. This letter cites to several statutory and constitutional provisions and alleges that the transfer by the County of a portion of county-owned

COUNTY ATTORNEY'S OFFICE
P.O. BOX 7800 • 315 W. MAIN ST. • SUITE 335 • TAVARES, FL 32778-7800 • P 352.343.9787 • F 352.343.9646
Board of County Commissioners • www.lakecountyfl.gov

Douglas B. Shields
District 1

Sean M. Parks, AICP, QEP
District 2

Kirby Smith
District 3

Leslie Campione
District 4

Josh Blake
District 5

FCT Governing Board Meeting
February 16, 2022

March 12, 2021

Page 2

property is unlawful. Although Lake County does not agree with the allegations contained in the letter, I am requesting that FDEP please advise if they deem the allegations have merit.

Please let us know at your earliest convenience if the County's proposal is acceptable so that we can resolve the concerns identified in your February 23, 2021 letter.

Sincerely,



Melanie Marsh
County Attorney

MM/na
Enclosures

cc: Lake County Board of County Commissioners {via email}
Alan Rosen, County Manager {via email}

**FRIENDS
OF THE
WEKIVA
RIVER,
INC.**



P. O. Box 6196
Longwood FL 32791-6196

www.FriendsofWekiva.org
friendswekivariver@gmail.com

March 6, 2021

Sean M. Parks, Chairman
Lake County Board of County Commissioners
315 W. Main Street
Tavares, FL 32778

Re: Friends of the Wekiva River, Inc. acquisition of a 25-foot-wide strip of land on the east side of the Lake May Reserve, Lake County, FL

Dear Chairman Parks:

The Board of Directors of the Friends of the Wekiva River, Inc. (FOWR) approved the first step in acquiring a 25-foot-wide strip of land on the eastern side of the Lake May Reserve in eastern Lake County at its board meeting on March 4, 2021. The FOWR is a 501(c)3 nonprofit organization with a mission to protect the integrity of the Wekiva River Basin. We have promoted the aesthetic and recreational values of the Wekiva River system through work with local, state, and federal agencies to establish the Wekiva as a Wild and Scenic River, an Aquatic Preserve, and an Outstanding Florida Water. We have also supported land acquisition in the Wekiva to Ocala Greenway, an area important to springshed protection and conservation of wildlife habitat between Wekiwa Springs State Park and the Ocala National Forest. Much of the remaining lands to be acquired in the Greenway lie in northeastern Lake County.

The FOWR Board of Directors authorized hiring an attorney to evaluate potential liabilities of land ownership and participating in a multi-party agreement with the county and the Florida Department of Environmental Protection. This due diligence will be undertaken with the intent to take ownership of the 0.12-acre piece of land.

Our attorney knows that time is of the essence and will begin the due diligence review after execution of the agreement with the FOWR. We appreciate the opportunity to collaborate with the Lake County Board of County Commissioners. Please let me know if you have any questions regarding our intentions, or the process we have begun.

Sincerely,

A handwritten signature in black ink, appearing to read "John Pottinger". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

John Pottinger, President

CC: Commissioner Campione

You OTTER care!



A federally recognized 501 (c) 3 not for profit corporation

A COPY OF THE OFFICIAL REGISTRATION AND FINANCIAL INFORMATION MAY BE OBTAINED FROM THE DIVISION OF CONSUMER SERVICES BY CALLING TOLL-FREE (800-435-7352) WITHIN THE STATE. REGISTRATION DOES NOT IMPLY ENDORSEMENT, APPROVAL, OR RECOMMENDATION BY THE STATE. REG. CH42991

Internal Revenue Service

Date: February 14, 2005

**FRIENDS OF THE WEKIVA RIVER INCORPORATED
2343 SPRINGS LANDING
LONGWOOD FL 32779-3706**

**Department of the Treasury
P. O. Box 2508
Cincinnati, OH 45201**

Person to Contact:
Kathy Masters ID# 31-04015
Customer Service Representative
Toll Free Telephone Number:
8:30 a.m. to 5:30 p.m. ET
877-829-5500
Fax Number:
513-263-3756
Federal Identification Number:
59-2226720

Dear Sir or Madam:

This is in response to your request of February 14, 2005, regarding your organization's tax-exempt status.

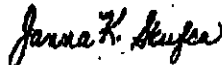
In June 1983 we issued a determination letter that recognized your organization as exempt from federal income tax. Our records indicate that your organization is currently exempt under section 501(c)(3) of the Internal Revenue Code.

Our records indicate that your organization is also classified as a public charity under section 509(a)(2) of the Internal Revenue Code.

Our records indicate that contributions to your organization are deductible under section 170 of the Code, and that you are qualified to receive tax deductible bequests, devises, transfers or gifts under section 2055, 2106 or 2522 of the Internal Revenue Code.

If you have any questions, please call us at the telephone number shown in the heading of this letter.

Sincerely,



Janna K. Skufca, Director, TE/GE
Customer Account Services

BY-LAWS
FRIENDS OF THE WEKIVA RIVER, INCORPORATED

The primary purposes for which this corporation is formed are:

- To promote and protect the unique environmental and recreational values of the Wekiva River and its tributaries, in a manner consistent with Section 501(c)(3) of the Internal Revenue Service Code;
- To protect the integrity of the Wekiva River basin;
- To work toward restoration and continuation of the Wekiva River and its tributaries to their natural state;
- To engage lawfully in the exchange and dissemination concerning the purposes and objectives of the Corporation; and
- To carry on educational activities to the same end.

Article I

Powers and Duties of Officers, Board of Directors, and Executive Committee

Section 1. The **President** is responsible for overseeing the operations of the Corporation. The President's duties include, but are not limited to:

- Preside over and decide all questions of order at meetings of the Corporation, the Board of Directors and the Executive Committee.
- Enforce the provisions of the Articles of Incorporation and these By-Laws.
- Act as judge in elections and declare the results.
- Appoint with the approval of the Board of Directors the chairs of standing committees and the chairs of such special committees that may be authorized by the Board of Directors.
- Appoint a nominating committee by February of each year that will provide a list of candidates for election of the Board of Directors and officers for the new fiscal year. This list shall be compiled before the election at the annual meeting.

Section 2. The **Vice-President** shall take the place of and perform all those duties in the absence of the President. The Vice-President shall also assume the title, duties, and responsibilities of the President in the event of resignation or removal of the President.

Section 3. The **Secretary's** responsibilities shall include, but are not limited to:

- Maintain all Corporate records.
- Be responsible for the general correspondence of the Corporation.
- Create accurate reports of the proceedings of the Corporation.
- Record Minutes of Board of Directors and Executive Committee meetings with the assistance of a Recording Secretary, if desired.
- Provide a copy of all documents to the President.

Section 4. The **Treasurer's** responsibilities shall include, but are not limited to:

- Be recipient and custodian of all monies of the Corporation.
- Deposit the funds of the Corporation in such depository as the Board has approved.
- Pay all bills of the Corporation.
- Maintain an accurate record showing all receipts and disbursements.

BY-LAWS
FRIENDS OF THE WEKIVA RIVER, INCORPORATED

- Keep the Board fully advised of all Corporate financial matters.
- File the Annual Corporate report with the State of Florida.
- File Annual Solicitation of Contribution registration with the State of Florida.
- File any necessary paperwork to maintain Federal 501(c)(3) status with Internal Revenue Service.
- Serve on the Finance Committee.

Section 5. The **Board of Directors** of Friends of the Wekiva River, Inc. is responsible for the general supervision over all the affairs of the Corporation. The Board shall have the power and authority to prescribe rules and regulations as to Corporation matters not otherwise provided for in the Articles of Incorporation and By-Laws.

The Board shall consist of at least fifteen (15) members and include the Chairs of all committees provided for in these By-Laws. Directors (Board Members) are elected for 3-year terms at the annual meeting each May with terms beginning on June 1. One-third (1/3) of the Board members are elected each year. Directors may resign with written notice to the President. The Board shall have the power to fill vacancies. Directors may be removed with just cause by a two-thirds (2/3) majority vote of the Board of Directors.

Responsibilities of Directors also include:

- Service on at least one Committee.
- Each member of the Board shall make an annual cash donation to the organization. Board members will be expected to give to the best of their means, at a level they would consider generous.

Section 6. The **Executive Committee** shall have seven members, to include the four current officers, the past President, and two of the Directors chosen by the President and approved by the Board of Directors. Subject to the approval of the Board, the Executive Committee shall conduct the business of the Corporation between Board Meetings.

Article II

Duties and Functions of Committees

Section 1. The **Communications Committee** shall promote the activities and objectives of Friends of Wekiva River, and make every effort to inform the broadest possible section of the population of our activities. They should make use of every possible vehicle for communication. Sub-Committees and their responsibilities include, but are not limited to:

- **Newsletter Sub-Committee** that shall obtain news articles, documents, and dates of meetings, workshops, and events that will be assembled into a newsletter. The newsletter will provide the general membership with the current news of the Wekiva River Basin
- **Web site and Social Media Sub-Committee** shall obtain information about the corporation and post it on the web site and other venues on a regular basis.

BY-LAWS
FRIENDS OF THE WEKIVA RIVER, INCORPORATED

Section 2. The **Membership Committee** shall endeavor to bring into the Corporation all who are interested in the primary purposes for which this Corporation is formed. The Committee shall be responsible for recruitment, new membership welcome packets/materials and renewal notifications. The Committee shall keep the membership database, providing Board and membership lists to the Board as requested, and be responsible for distributing materials to the Board and to the membership, as directed by the President and/or the Communications Committee.

Section 3. The **Finance Committee** consists of the Treasurer and at least two (2) other persons. The duties of the Finance Committee include but are not limited to:

- Propose means to raise money.
- Annual review. The Committee, with the exception of the Treasurer, shall perform an annual review and report the findings to the Board by August of each year.
- Prepare an annual budget to be presented for approval by the Board by September of each year.
- Set a schedule for Membership dues, subject to Board approval.

Section 4. The **Technical Committee** shall include individuals with extensive knowledge, specialized training, experience, or interest in scientific disciplines related to water quality, water quantity, and both riverine and wildlife ecology related to the Wekiva River basin. The committee will maintain liaison with Federal, State, and local governmental agencies in matters related to the purposes for which this Corporation was formed. This committee will evaluate rule changes, proposed legislation, comprehensive plan amendments, and agency decisions that could affect the integrity of natural resources in the Wekiva Basin. The committee will conduct informative sessions for the Board (and membership when appropriate) on issues and threats to the Wekiva River basin.

Section 5. The **Education Committee** shall promote environmental education programs designed to protect the Wekiva River basin and to gain community support. Activities and sub-committees to be organized by the Education Committee may include:

- Programs
- Field Trips
- Speakers Bureau
- River Clean-ups
- Wekiva River Awareness Day

Section 6. The **Nominating Committee** shall consist of three or more members appointed by the President and approved by the Executive Committee no later than February of each year. The Committee shall evaluate the service of each Director whose term is about to expire, and submit a slate of officers and directors at the April Board meeting.

In order to establish staggering terms, in 2014 the nominating committee will nominate one-third of the Board for one year, one-third for two years, and one-third for three years.

**BY-LAWS
FRIENDS OF THE WEKIVA RIVER, INCORPORATED**

Article III

Election and Terms of Officers and Directors

Section 1. Officers and Board of Directors members shall be members in good standing of the Corporation.

Section 2. Elections are held at the Annual Meeting, in May of each year. Chair of the Nominating Committee will present the Board approved slate of Officers and Directors. The election shall proceed by a show of hands of the Directors. A majority of the votes cast shall constitute an election. A Majority shall constitute at least 51% of the votes cast.

Section 3. Officers are elected annually, and may serve no more than three successive terms, unless approved by a 2/3rds majority of the Board.

Section 4. Following the election, elected Officers and Board members shall take office on the first day of June.

Article IV

Meetings of the Corporation

Section 1. Regular meetings of the Corporation shall be held on a regular basis as determined by the Board of Directors.

Section 2. Special meetings of the Board may be called by the President or at the written request of twenty-five percent of the Directors.

Section 3. Executive Committee meetings shall be held at the call of the President or upon written request of four members of the Executive Committee.

Article V

Quorums

Section 1. Fifty-one (51) percent of the Board of Directors shall constitute a quorum.

Section 2. Four (4) members of the Executive Committee shall constitute a quorum.

Article VI

Fiscal Year

Section 1. The fiscal year of the Corporation shall be from June 1st to May 30th.

BY-LAWS
FRIENDS OF THE WEKIVA RIVER, INCORPORATED

Article VII

Amendment of By-Laws


These By-Laws may be amended by a two-thirds (2/3) majority vote of the Directors at any meeting at which a quorum is present. However, notice must be given to the Board at least ten (10) days prior to a meeting at which By-Laws changes are to be considered.

Article VIII

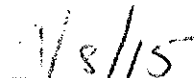
Special Members

The Board of Directors shall establish rules regarding **Honorary Members**, **Emeritus Members**, **Technical Advisors**, and any other member types they deem appropriate. Such rules to be maintained by the Secretary of the Corporation.

Certification: We, the duly elected President and Secretary, certify that these By-Laws were amended in keeping with the quorum, notification and By-Laws amendment procedures contained herein.



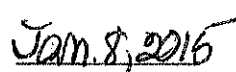
Don Brouillard, President



Date



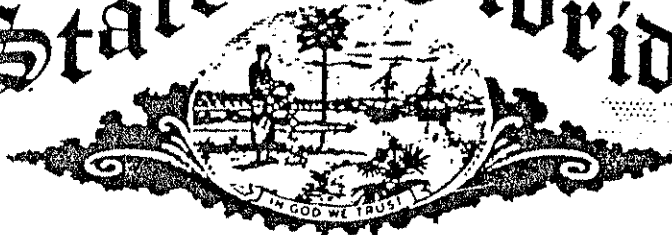
Anita Henry, Secretary



Date

Date: January 8, 2015

State of Florida



Department of State

I certify that the attached is a true and correct copy of Articles of Incorporation of FRIENDS OF THE WEKIVA RIVER, INCORPORATED, a corporation organized under the laws of the State of Florida, filed on September 1, 1982, as shown by the records of this office.

Given under my hand and the Great Seal of the State of Florida, at Tallahassee, the Capital, this the 15th day of December, 1982.



CER 101

George Firestone
Secretary of State

ARTICLES OF INCORPORATION
OF
FRIENDS OF THE WEKIVA RIVER, INCORPORATED

FILED
SEP 1 1 00 PM '82
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

We, the undersigned, hereby associate ourselves together for the purpose of forming a non-profit corporation under the laws of the State of Florida, pursuant to Florida Statutes 617 et seq., and hereby certify as follows:

ARTICLE I: The name of this corporation shall be: FRIENDS OF THE WEKIVA RIVER, INCORPORATED.

ARTICLE II: The purposes for which this corporation is formed are:

(a) The primary purposes are:

1. To promote and protect the unique environmental and recreational values of the Wekiva River and its tributaries, in a manner consistent with Section 501(c)(3) of the Internal Revenue Service Code.

2. To protect the integrity of the Wekiva River basin, in a manner consistent with Section 501(c)(3) of the Internal Revenue Service Code.

3. To work toward restoration and continuation of the Wekiva River and its tributaries to their natural state, in a manner consistent with Section 501(c)(3) of the Internal Revenue Service Code.

4. To engage lawfully in the exchange and dissemination of information concerning the purposes and objectives of the Corporation, in a manner consistent with Section 501(c)(3) of the Internal Revenue Service Code.

5. To carry on educational activities to the same end.

(b) The general purposes and powers are to have and exercise all rights and powers conferred on non-profit corporations under the laws of the State of Florida, including the power to contract, rent, buy, or sell personal or real property; provided, however, that this Corporation shall not, except to an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of the primary purposes of this Corporation.

(c) The Corporation shall not operate to facilitate the transaction of specific business by its members, or promote the private interest of any member or engage in any activities which would constitute a regular business of a kind ordinarily carried on for profit.

(d) Notwithstanding any other provision of these articles, this Corporation will not carry on any other activities not permitted to be carried on by (a) a corporation exempt from Federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1954 or the corresponding provision of any future United States internal revenue law or (b) a corporation, contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code of 1954 or any other corresponding provision of any future United States internal revenue law.

ARTICLE III:

(a) The membership of the Corporation shall consist of not less than three persons; the first members of the Corporation shall be those persons who are named in this certificate of incorporation as constituting the first Board of Directors. Any adult person is eligible for membership in this Corporation. Unless otherwise provided in the By-Laws, any of the foregoing may be elected a member upon being proposed for membership by any member in good standing, by written application to the President or Secretary, and favorably passed upon by the Board of Directors. The By-Laws may make provision for honorary members.

(b) The authorized number, if any, and qualifications of members of the Corporation, the filling of vacancies, the different classes of membership, if any, the property, voting rights, and other rights and privileges of members, and their liability due to dues and assessments and the method of collection, and the termination and transfer of membership shall be as stated in the By-Laws. Provided, however, that if the voting, property or other rights or interests, or any of them, be unequal, the By-Laws shall set forth the rule or rules by which the respective voting, property or other rights or interests of each member or class of members are fixed and determined.

ARTICLE IV: This Corporation shall have perpetual existence.

ARTICLE V: The names and addresses of the subscribers to these Articles of Incorporation are as follows:

NAME	POST OFFICE ADDRESS
RUSSELL F. FISHER	2325 Sherbrooke Road Winter Park, Florida 32792
PATRICIA G. HARDEN	5400 Andrus Avenue Orlando, Florida 32810
GERALD KORMAN	105 Wild Fern Drive Longwood, Florida 32750

ARTICLE VI: The affairs of the Corporation shall be managed and governed by a Board of Directors composed of not less than

three nor more than the number specified in the By-Laws. Provisions for elections and provisions respecting the removal, disqualification, compensation, duties and resignation of directors, and for filling vacancies on the Directorate shall be established by the By-Laws.

The principal officers of the Corporation who will manage the affairs of the corporation are: President, Vice-President, Secretary and Treasurer. (The last two officers may be combined). The times at which the officers will be appointed will be annually, at the annual meeting of directors.

ARTICLE VII: The names of the officers who are to serve until the first appointment of officers pursuant to the terms of the By-Laws are as follows:

- RUSSELL F. FISHER, President
- MRS. PATRICIA G. HARDEN, Vice-President
- MRS. KATIE MONCRIEF, Secretary
- JAMES A. OLIVER, Treasurer

ARTICLE VIII: The following persons shall constitute the first Board of Directors:

NAME	POST OFFICE ADDRESS
RUSSELL F. FISHER	2325 Sherbrooke Road Winter Park, Florida 32792
PATRICIA G. HARDEN	5400 Andrus Avenue Orlando, Florida 32810
KATIE MONCRIEF	1074 Betsy Run Longwood, Florida 32750
JAMES A. OLIVER	162 Jay Drive Altamonte Springs, Florida 32701
WILLIAM D. RISKE	P.O. Box 1124 Longwood, Florida 32750
JAMES M. THOMAS	Route 2, Box 544 Winter Garden, Florida 32787
EDDIE L. WILLIFORD	Route 4, Box 427 Apopka, Florida 32703
LORRAINE S. WILLIFORD	Route 4, Box 427 Apopka, Florida 32703
E. ALLEN STEWART, III	P.O. Box 904 Lake Helen, Florida 32706

FREDERICK W. HARDEN	5400 Andrus Avenue Orlando, Florida 32810
ELEANOR Y. FISHER	2325 Sherbrooke Road Winter Park, Florida 32792
RUSSELL L. MONCRIEF	1074 Betsy Run Longwood, Florida 32750
SCOTT HENDERSON	327 Halsey Street Orlando, Florida 32809
GREGORY J. BRETZ	963 Spring Garden Street Altamonte Springs, Florida 32701
POLLY G. MILLER	121 Larkspur Drive Altamonte Springs, Florida 32701
VIRGINIA G. OLIVER	162 Jay Drive Altamonte Springs, Florida 32701
JOAN I. IRWIN	52 Okaloosa Trail Sorrento, Florida 32776
JULI PATTI	50 Loudon Court Maitland, Florida
GERALD KORMAN	105 Wild Fern Drive Longwood, Florida 32750

Notwithstanding any other provision in these Articles, any action required or permitted to be taken by the Board of Directors under any provision of law may be taken without a meeting, if all the members of the Board shall individually or collectively consent in writing to such action. Such action by written consent shall have the same force and effect as the unanimous vote of such Directors. Any certificate or other document filed under any provision of law which relates to action so taken, shall state that the action was taken by unanimous written consent of the Board of Directors without a meeting and that the Articles of Incorporation authorize the Directors to so act, and such statement shall be prima facie evidence of such authority.

Directors shall not be personally liable for the debts, liabilities, or obligations of the Corporation.

ARTICLE IX: The By-Laws of the Corporation shall initially be made and adopted by a majority of its first Board of Directors.

The By-Laws may be amended, altered, supplemented or modified at any time, and from time to time, by a majority of the Board of Directors.

ARTICLE X: Amendments to these Articles of Incorporation may be proposed by any director and shall be adopted in the same manner as is provided for the amendment of the By-Laws as set forth in Article IX above. Said amendment shall be effective when a copy thereof, together with an attached certificate of its approval by the Board, sealed with the corporation seal, signed by the Secretary or Assistant Secretary, and executed and acknowledged by the President or Vice-President, has been filed with the Secretary of State, and all filing dues paid.

ARTICLE XI: This Corporation shall have all the powers set forth in Florida Statutes 617 et seq. Without limiting the foregoing, the Corporation shall have the power, either directly or indirectly, either alone or in conjunction or cooperation with others, to do any and all lawful acts and things, and to engage in any and all lawful activities which may be necessary useful, suitable, desirable, or proper for the furtherance, accomplishment, or attainment of any or all of the purposes for which the Corporation is organized, and to aid or assist other organizations whose activities are such as to further, accomplish, or attain any of these purposes. Notwithstanding anything to the contrary, the Corporation shall exercise only such powers as are in furtherance of the exempt purposes of organizations set forth in Section 501, Subsection C of the Internal Revenue Code of 1954, and the regulations thereunder as they now exist or as they may have been heretofore and hereafter amended from time to time.

ARTICLE XII: The corporation is not organized for profit, and no part of the net earnings of the Corporation shall inure to the benefit of any private manager or individual. In the event of dissolution, the residual assets of the organization will be turned over to one or more organizations which themselves are exempt as organizations described in Sections 501(c)(3) and 170(c)(2) of the Internal Revenue Code of 1954 or corresponding sections of any prior or future law, or to the Federal, State or local government for exclusive public purpose.

IN WITNESS WHEREOF, the subscribers have hereunto set their hands and seals this 19th day of August, 1982.


RUSSELL F. FISHER



PATRICIA G. HARDEN


GERALD KORMAN

STATE OF FLORIDA
COUNTY OF SEMINOLE

I HEREBY CERTIFY that on this 19th day of August, 1982, before me a Notary Public duly authorized in the State and County above named to take acknowledgments, personally appeared RUSSELL F. FISHER, PATRICIA G. HARDEN and GERALD KORMAN, to me known to be the persons described in and who executed the foregoing Articles of Incorporation, and acknowledged before me that they subscribed to said Articles, and that the facts therein are truly set forth.

WITNESS my hand and official seal at Longwood, Florida, the day and year aforesaid.


Notary Public

My Commission expires: 8/20/84

CERTIFICATE OF REGISTERED AGENT

In pursuance of Chapter 617 et seq. of Florida Statutes the following is submitted in compliance with said Act:

FIRST: That FRIENDS OF THE WEKIVA RIVER, INCORPORATED, desiring to organize under the laws of the State of Florida, has named RUSSELL F. FISHER, 2325 Sherbrooke Road, Winter Park, Florida 32792, as its agent to accept service of process within the State.

ACKNOWLEDGMENT

Having been named to accept service of process for the above stated Corporation, I hereby accept to act in this capacity, and agree to comply with the provision of said Act.

Russell F. Fisher

RUSSELL F. FISHER, Registered Agent

STATE OF FLORIDA
COUNTY OF SEMINOLE

I HEREBY CERTIFY that on this 1st day of August, 1982, before me, a Notary Public duly authorized in the State and County above stated to take acknowledgments, personally appeared RUSSELL F. FISHER, to me known to be the person described in and who executed the foregoing Certificate of Registered Agent, and acknowledged before me that he subscribed to said Certificate, and that the facts therein contained are truly set forth.

WITNESS my hand and official seal at Lorquard, Florida, the day and year aforesaid.

Karen E. McKelvey
Notary Public

My Commission expires: 8/30/84

April 22, 2021

Melanie Marsh
County Attorney, Lake County
315 W. Main Street, Ste. 335
Tavares, FL 32778

Via email: mmarsh@lakecountyfl.gov

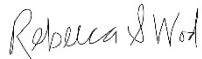
Ms. Marsh:

The Florida Communities Trust ("FCT") received Lake County's response to FCT's non-compliance letter of February 23, 2021, regarding partial conveyance of the FCT project site to the Elaine Berol Taylor and Scott Bevan Taylor Foundation. Your timely response is appreciated.

To cure the noncompliance, the county identified the Friends of Wekiva River, Inc. (FWOR) as a possible transferee of the 25' strip of land in question. While FCT staff believes FWOR is an eligible nonprofit FCT recipient which has the conservation of natural resources or protection of the environment among its principal goals, section 380.510(3)(b), Florida Statutes, states "**the transfer of land acquired with a trust grant or loan shall be subject to the approval of the trust**, and the trust shall enter into a new agreement with the transferee, containing such covenants, reverter clauses, or other restrictions as are sufficient to protect the interest of the people of Florida."

Resolution of this matter requires FCT board action because correspondence opposing the transfer has been received. The FCT board currently has three vacancies which creates a lack of quorum and no board meetings are currently scheduled. FCT staff will advise of the next scheduled board meeting at which this item may be presented.

Respectfully,



Rebecca S. Wood
Program Manager

cc: Derek A. Schroth, Esquire (dschroth@bowenschroth.com)
William N. Spicola, Esquire (William@WilliamSpicolaPA.com)
Samual A. Miller, CFE (samual.miller@akerman.com)

Opposition Correspondence and Responses

BOWEN | SCHROTH

Attorneys at Law

Attorneys

Morton D. Aulls **
Lennon E. Bowen III *
Zachary T. Broome †
H. John Feldman ‡
Sasha O. Garcia
Richard Hennings **
Todd J. Mazenko
James A. Myers
Del G. Potter ▪
Derek A. Schroth ◊
Kevin B. Rossi

** Of Counsel
* Florida Supreme Court Certified Circuit Civil Mediator
† Also Admitted to Practice in Alabama
‡ Board Certified in Wills, Trusts and Estates
▪ Of Counsel – Florida Supreme Court Certified
Circuit Civil and Appellate Mediator
◊ Florida Bar Certified Expert in Business Litigation and
Local Government Law

Derek A. Schroth - dschroth@bowenschroth.com

March 1, 2021

Florida Department of Environmental Protection
Attn: Mr. Justin Wolfe, General Counsel
Rebecca Wood, Program Manager

Via Email: Justin.Wolfe@FloridaDEP.gov
Rebecca.Wood@FloridaDEP.gov

Re: Lake County's Unlawful Conveyance of a portion of Lake May Reserve Park ("Property")

Dear Manager Wood and General Counsel Wolfe:

I reviewed DEP's letters to Lake County Attorney Melanie Marsh dated February 16, 2021, and February 23, 2021. I represent the City of Eustis (the "City"). The City agrees with DEP. Lake County's conveyance of the Property was illegal. Lake County violated the intent and the clear requirements of the covenants and restrictions recorded at Book 5783, Page 1876, Official Records of Lake County. Lake County also violated Chapter 380 *Florida Statutes* by deeding conservation land purchased with state funds without DEP permission to an unauthorized and ineligible third party for the sole purpose of gaining leverage in a political dispute with the City.

Lake County's unlawful conveyance of a portion of a county park to an unauthorized and ineligible third party has substantially impacted the City. In addition to violating the statutorily mandated conditions of the FCT grant and restrictions, the unlawful conveyance failed to comply with Section 380.510 (e) *Florida Statutes* (2020), and is a major statutory violation under Section 120.695 (2)(a) *Florida Statutes* (2020), because the County's actions have adversely affected the public welfare and caused economic harm to a private property owner, the Carol L. Harper Living Trust. Because of the County's unlawful conveyance, the City cannot complete the annexation, land use, and design district hearings regarding the applications filed by the Carol L. Harper Living Trust. Prior to the County's unlawful conveyance, the property owned by the Carol L. Harper Living Trust was contiguous to the City of Eustis meeting all statutory requirements of annexation. See Section 171.031 (11) *Florida Statutes* (2020)(separation of property by a publicly owned county park "shall not prevent annexation").

The County's sole purpose in deeding the Property to an unauthorized third party was to gain leverage in an ongoing political dispute with the City by preventing the City from conducting the final hearings on the Carol L. Harper Living Trust's applications. This improper purpose is not consistent with the intent or express language of the grant conditions or the covenants and restrictions.

The City respectfully requests DEP (1) deny Lake County's request to allow the unauthorized third party to deed the Property because the third party is not authorized to own or convey the Property and (2) require Lake County immediately rescind the unlawful conveyance and invalid deed. Thank you for your time and consideration and please do not hesitate contacting me should you have any questions or comments.

Sincerely,



Derek A. Schroth

CC: Rita Ventry and Lois LaSeur
Melanie Marsh, County Attorney
Ron Neibert, City Manager



Samual A. Miller

Akerman LLP
420 South Orange Avenue
Suite 1200
Orlando, FL 32801-4904

D: 407 419 8477
T: 407 423 4000
F: 407 843 6610
DirF: 407 254 3783
samual.miller@akerman.com

March 5, 2021

**By Email (Justin.Wolfe@FloridaDEP.gov;
Rebecca.Wood@FloridaDEP.gov)**

Mr. Justin Wolfe, General Counsel
Ms. Rebecca Wood, Program Manager
Florida Department of Environmental Protection
Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, FL 32399

Re: Lake County's Unlawful Conveyance of a Portion of the Lake May Reserve ("Reserve")

Dear Manager Wood and General Counsel Wolfe:

We represent the Carol L. Harper Living Trust ("Trust"). The Trust owns land abutting the eastern border of the Reserve. We are writing this letter to express the Trust's agreement with the Florida Community Trust's ("FCT") determination, as stated in the February 16, 2021 and February 23, 2021 letters by Ms. Wood that Lake County, Florida's ("County") deeding of a portion of the Reserve to the Elaine B. and Scott B. Taylor Foundation ("Foundation"), was in violation of the Declaration of Covenants and Restrictions, recorded in the official records for the County, Book 5783, Page 1876. The County may not transfer any portion of the Reserve without obtaining the FCT's prior approval. Additionally, the transfer violates the requirements of Section 380.503(5), Florida Statutes, as the Foundation is not an entity "which has among its principal goals the conservation of natural resources or protection of the environment."

Before proceeding further, it is troubling that the County proceeded with the subject transfer of the Reserve property without first conferring with the FCT. This is particularly so given the explicit language in the recorded documents, explicit language in the Florida Statutes, and also given that our office explicitly raised this very issue with the County in advance of the transfer.

In addition to the determination already made by the FCT, we are requesting the FCT deny any request by the County to transfer any portion of the Reserve to a private party. As stated in the March 1, 2021 letter by Derek A. Schroth, counsel for the City of Eustis ("City"), the County's deeding of a portion of the Reserve to the Foundation, or another private party, violates the

requirements of Section 380.510(3), Florida Statutes. In addition to the arguments made by the City, we would like to add that, not only does Section 380.510(3)(b), Florida Statutes, require the FCT's approval as a condition precedent to any transfer of property purchased with funds from the FCT, but the transferee must enter into a new covenant sufficient to "protect the interest of the people of Florida." No covenant was entered into here. Further, no covenant entered into by the FCT and a private party, in situations such as this, may sufficiently protect the interest of the people of Florida.

The Florida Legislature, in adopting Section 171.031, Florida Statutes, determined that it is in the best interest of the people of Florida to allow for landowners with land abutting a municipality to be able to voluntarily petition the municipality to have the landowner's land be annexed into the adjacent municipality. The Florida Legislature further determined that publicly owned land such as a county park "shall not prevent annexation." Section 171.031, Florida Statutes. Allowing the County to transfer a portion of the Reserve, a county park, to a private party for the sole purpose of breaking contiguity necessary for annexation, is contrary to the Florida Legislature's determination of what is in the best interest of the people of Florida. Therefore, any covenant entered into by the FCT and the private party to help further the County's illegal actions is contrary to the Florida Legislature's determination - as to contiguity for annexation purposes – and can never be in the best interest of the people of Florida.

Further, the Reserve is conservation land purchased with money from bonds set for conservation purposes and FCT funds. The County's deeding of a portion of the Reserve, which is conservation land to a private party violates both the Florida Constitution and Florida Statutes. For example:

Section Article X, Section 18, Florida Constitution, which states:

Disposition of conservation lands.—The fee interest in real property held by an entity of the state and designated for natural resources conservation purposes as provided by general law shall be managed for the benefit of the citizens of this state and 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.** [Emphasis added.]

Section 259.032(1), Florida Statutes, which states:

It is the policy of the state that the citizens of this state shall be assured **public ownership** of natural areas for purposes of maintaining this state's unique natural resources. . . . [Emphasis added.]

Mr. Justin Wolfe
Ms. Rebecca Wood
March 5, 2021
Page 3

Section 259.105(5)(c), Florida Statutes, which states:

The title to lands acquired under this section shall vest in the Board of Trustees of the Internal Improvement Trust Fund, except that title to lands acquired by a water management district shall vest in the name of that district and lands acquired by a local government **shall vest in the name of the purchasing local government.** [Emphasis added.]

For the reasons stated above, we respectfully request the FCT: (1) deny any request by the County to transfer any portion of the Reserve to a private party that is in violation of the Declaration, Florida Statutes, and the Florida Constitution; (2) require the County to immediately rescind the invalid deed based on an unlawful conveyance to the Foundation; and (3) take actions necessary to have the Reserve revert to the FCT should the County continue in its unlawful endeavors to deed conservation land to private parties for the sole purpose of stopping the City from lawfully annexing the Trust's land.

Thank you for your consideration and please contact us if you need any additional information or have any questions or comments.

Sincerely,

AKERMAN LLP



Samual A. Miller, CFE
For the Firm

c: Rita Ventry and Lois LaSeur
Melanie Marsh, County Attorney
Derek A. Schroth
Ronald Neibert
Lori Barnes



WILLIAM SPICOLA
PA

March 5, 2021

Via Email: Florida Department of Environmental Protection

Attention: Ms. Rebecca Wood, Program Manager
Mr. Justin Wolfe, General Counsel

Re: Lake County's Unlawful Conveyance of a portion of Lake May Reserve Park ("Property")

Manager Wood and General Counsel Wolfe:

Thank you for time and effort you have already spent dealing with the sham illegal and invalid land transfer by Lake County. As stated in your correspondence to Lake County Attorney Melanie Marsh dated February 16, 2021, and February 23, 2021., Lake County's conveyance of the Property is illegal.

Lake County violated the intent and the clear requirements of the covenants and restrictions recorded at Book 5783, Page 1876, Official Records of Lake County. Lake County also violated Chapter 380 Florida Statutes by deeding conservation land purchased with state funds without DEP permission to an unauthorized and ineligible third party. Furthermore, it is apparent that Lake County violating the statutorily mandated conditions of the FCT grant and restrictions. The unlawful conveyance failed to comply with Section 380.510 (e) Florida Statutes (2020) and violated Section 120.695 (2)(a) Florida Statutes (2020), because the County's actions have adversely affected the public welfare and caused economic harm to a private property owner the Carol L. Harper Living Trust.

Derek A. Schroth representing the City of Eustis previously communicated to you that because of the County's unlawful conveyance, the City cannot complete the annexation, land use, and design district hearings regarding the applications filed by the Carol L. Harper Living Trust. Prior to the County's unlawful conveyance, the property owned by the Carol L. Harper Living Trust was contiguous to the City of Eustis meeting all statutory requirements of annexation. See Section 171.031 (11) Florida Statutes (2020) (separation of property by a publicly owned county park "shall not prevent annexation"). As shown by the attached Lake County Commission agendas, the land was transferred for the sole purpose of stopping annexation by the City of Eustis. That is plain wrong and is illegal. Their sham conveyance is not consistent with the intent or express language of the grant conditions or the covenants and restrictions.

DEP must order Lake County to rescind this illegal sham conveyance and deny Lake County's request to allow an unauthorized third party to deed the Property. The third party is not authorized to own or convey the Property and therefore they cannot transfer it. Lake County's illegal sham conveyance cannot meet the grant conditions or the covenants and restrictions because the sole purpose of the illegal sham conveyance is to stop an annexation by the City of Eustis. Local political grudges cannot and do not meet the restrictions of the FCT grant and covenants on transfer. Thank you for your time and consideration and please do not hesitate to contact me if you have any questions or concerns.

Sincerely,

/s/ William N. Spicola

William N. Spicola

Florida Bar No. 70732

William Spicola P.A.

Post Office Box 664

Tallahassee, Florida 32302

Telephone: (850) 895-1056

Email: William@WilliamSpicolaPA.com

**BOARD OF COUNTY COMMISSIONERS
LAKE COUNTY, FLORIDA
OFFICE OF THE COUNTY MANAGER
AGENDA ITEM COVER SHEET**

DATE: 11/13/2020

MEETING DATE: 11/17/2020

TO: Board of County Commissioners

ITEM TYPE: Other

THRU:

ITEM ID: 12601

BY: Commissioner Leslie Campione

SUBJECT: Eustis Annexation

RECOMMENDATION/REQUIRED ACTION:

Discussion and direction regarding the Eustis annexation of property located on Eldorado Lake Drive and Thrill Hill Road

BACKGROUND SUMMARY: Proposed Action: Prevent the use of the County's passive park known as Lake May Preserve from being used as the mechanism to facilitate an annexation of land by the City of Eustis, by conveying a 25 foot wide strip of property along the eastern boundary of the Lake May Preserve to a non-profit foundation operated by Scott and Elaine Taylor, who are residents of East Lake County.

The Scott and Elaine Taylor Foundation has been in existence for ten years and supports many conservation efforts including providing financial support to entities such as the Audobon Society of Florida and the Nature Conservancy. Scott Taylor was very involved in the grass roots efforts two decades ago which led to a countywide referendum to purchase land throughout Lake County that would be set aside for conservation purposes. The referendum was approved by 70% of Lake County voters and it occurred at a time when residential growth and speculative development of housing projects was happening in Lake County at a record pace. One of the conservation land purchases made by Lake County on behalf of the public was the Lake May Preserve. The Taylors strongly oppose the use of the Lake May Preserve as a mechanism for the City of Eustis to annex land that lies far beyond the City's actual boundaries and well beyond areas that are actually developed within the City of Eustis; and several miles from the City's fire station, water and sewer lines, and areas currently patrolled by the Eustis police. The Taylors hope to promote joint planning efforts to address land use regulations and interlocal agreements to address the issues that make the proposed annexation controversial and are willing to hold the 25 foot strip of park land on a temporary basis or as long as necessary to achieve good land planning.

The City's Proposed Annexation Does Not Meet Requirements of the Florida Statutes: The Florida Statutes require that land being annexed into a city be contiguous and reasonably compact. That statute specifically describes finger-like and

serpentine configurations as “not” being reasonably compact. A map of the Eustis proposal reveals a situation that is contrary to the intent of the Florida Statutes and there is clearly a basis for challenging the proposed annexation.

The boundary of the property sought to be annexed that is adjacent to Lake May Reserve is 199 linear feet which equates to 23% of a single boundary being contiguous to the city limits via connection through the county park. The total acreage for the property sought to be annexed that is adjacent to Lake May Reserve is approximately 21 acres. The total acreage for all parcels, including the parcels directly adjacent to Lake May Reserve, to be annexed is approximately 163 acres.

Unincorporated Residents Have Asked the Board to Intervene: The unincorporated residents living around the area proposed for annexation have asked the County Commission to intervene on their behalf to prevent this annexation from occurring. Unincorporated residents do not have legal standing to intervene in this matter and they must rely on the Board to do this for them. Furthermore, an annexation of this nature has significant impacts on county services funded by unincorporated residents and creates a disproportionate burden on county services until such time as the city expands its own services into this area (transportation impacts, signalization, first response/fire rescue, law enforcement). The second and final reading of the annexation ordinance is scheduled for December 3rd before the Eustis Commission.

Eustis Landowner Intervention: The property owner of a large pasture at the northwest corner of Estes Road and CR 44A (which is technically located inside the City limits but is undeveloped and used for agricultural purposes and is the parcel that Eustis is using to establish contiguity with property outside of the City limits) has retained a lawyer to seek to persuade the City to change its current position and challenge the decision in court if necessary.

Request by the Board to Eustis for Postponement and Joint Planning Denied: The Board requested the Eustis Commission to reconsider its decision to proceed with this annexation, and requested that the Eustis Commission engage in joint planning with the Board to find common ground and establish densities and development criteria that would seek to preserve the character of the Thrill Hill area while allowing reasonable and compatible densities. Unfortunately, the City of Eustis has indicated they are not willing to postpone the annexation in order to engage in joint planning with Lake County and at this point, the adoption of the annexation ordinance appears inevitable. Thus, the Board is left with the following choices: doing nothing (contrary to the many requests we have received from unincorporated residents), challenge the annexation in court after the December 3rd hearing, or take preemptive action to prevent the annexation from occurring.

The Scott and Elaine Taylor Foundation has offered a Temporary Solution to Facilitate Joint Planning: The request to convey a 25 foot strip of the Lake May Preserve to the Scott and Elaine Taylor Foundation would be in the best interest of both city and unincorporated residents because it would create a “hold” on this situation until meaningful joint planning could occur. The conveyance would create a gap that would block the City from using the county’s park to establish contiguity and it would

hopefully prevent protracted litigation and facilitate negotiations between the County and the City. The Taylors have agreed they would deed the 25 foot strip back to the County if the City is willing to engage in joint planning to address issues such as the most efficient and appropriate ways to serve this area with government services (roads, police, fire/first responders) and the protection of the character of the area, including the preservation of agricultural land uses, and the designation of compatible densities and land uses.

An annexation that opens the door for the construction of thousands of new homes and a transformation of this primarily rural area east of Eustis deserves attention by all interested parties and stakeholders; This area has attributes similar to Wellness Way: The City has argued vehemently that its vision and the desires of those seeking to annex into the city limits should be the only parties who control the outcome of how this area develops well into the future. But there are many other important interests that need to be considered, including the unincorporated residents who currently reside in these areas, agricultural businesses which are very important to Lake County’s economy, and the taxpayers who fund the services that will be relied upon by the city during its “growing process” (e.g. transportation, signalization, and road maintenance; first responders, sheriff’s department, etc.). The annexation on December 3rd, if it occurs, creates a path shown on the attached map for the construction of thousands of new homes and the transformation of this primarily rural area which is located in close proximity to the Wekiva Parkway and Seminole and Orange counties. Consider the efforts that went into land planning for Wellness Way and its similar proximity to the 429 Expressway and Orange County. This area has many of the same attributes of Wellness Way and failure to put this annexation on hold until the area can be effectively planned would be a monumental and irreparable mistake.

Lake May Preserve was purchased with funds from the public lands bond referendum which is set to be paid in full by April 1, 2026. The County also received a grant from the Florida Communities Trust (FCT). The FCT grant agreement and restrictive covenants would require FCT approval of a conveyance, along with requiring the non-profit entity to execute its own agreement with FCT to ensure that the grant funds were used for their intended purposes.

Fiscal Impact: None

Account No.:

Advertised Date:

Paper:

Attachments:

1.	ISBA Proposed Annex
2.	Location map
3.	Contiguous Percentage Map

STAFF APPROVALS AND DATES:

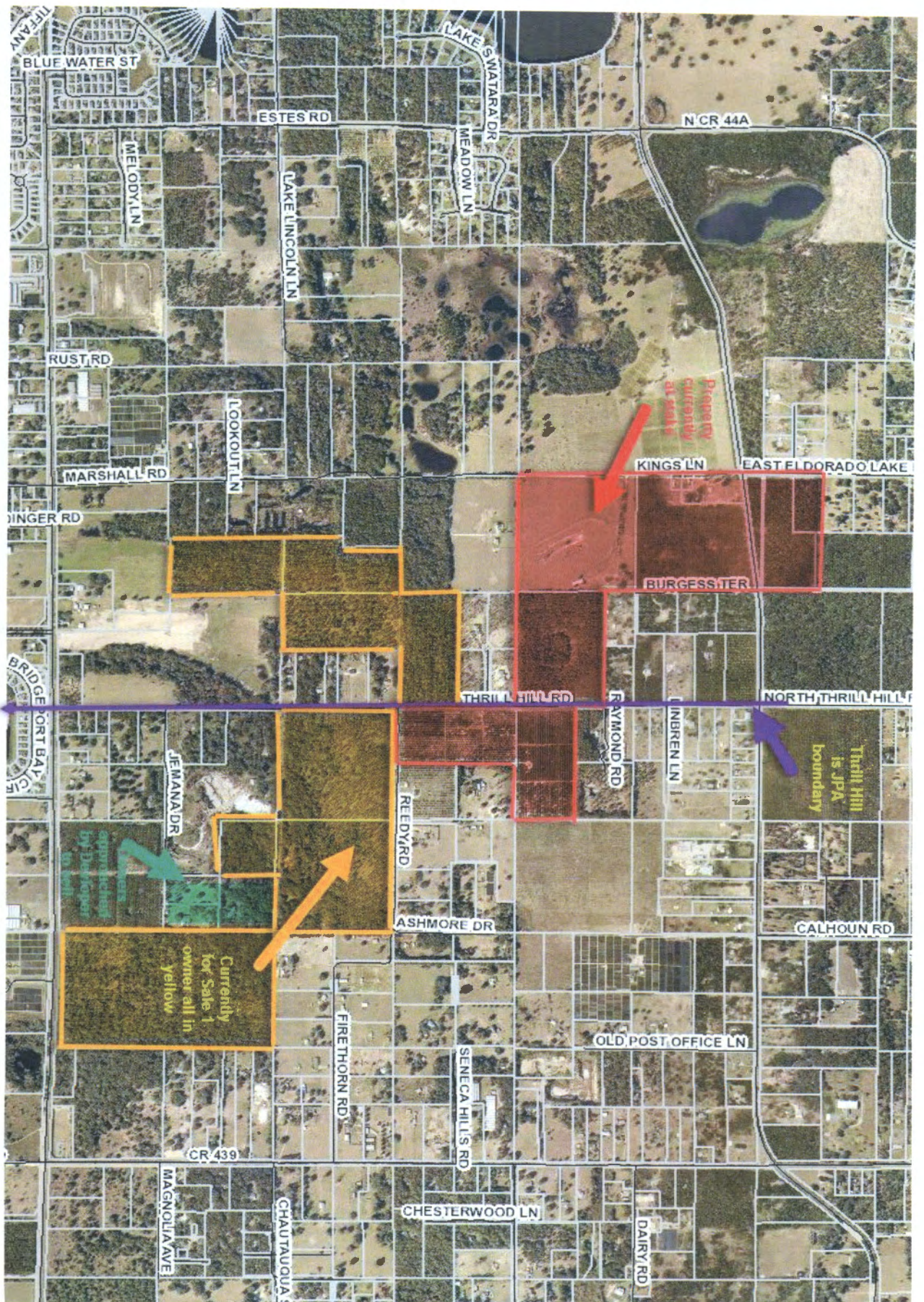
Angela Harrold	Created/Initiated - 11/13/2020
Melanie Marsh	Approved - 11/13/2020
Jennifer Barker	New -
Melanie Marsh	
Angela Harrold	

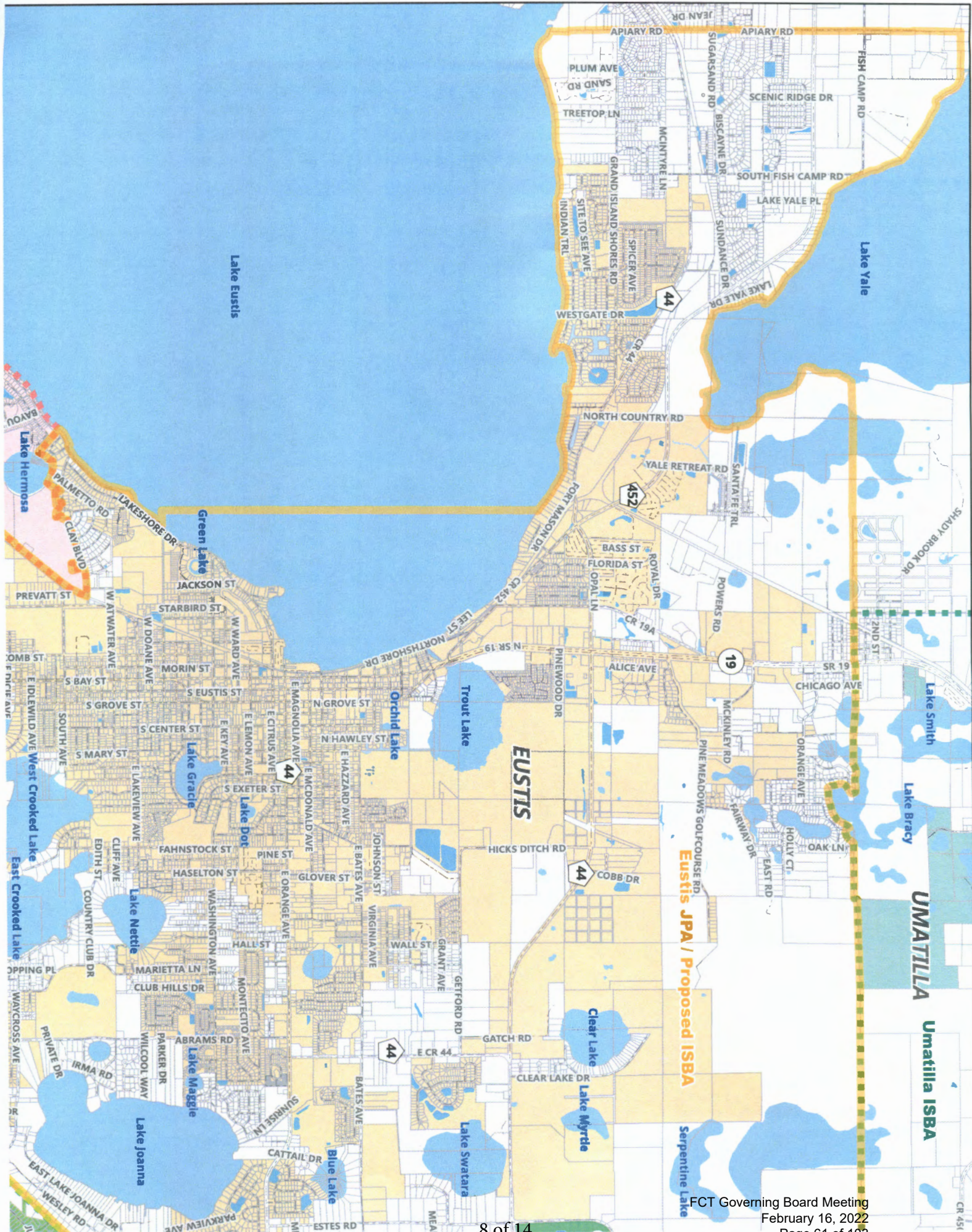
ACTION TAKEN BY BOARD:

Action: New

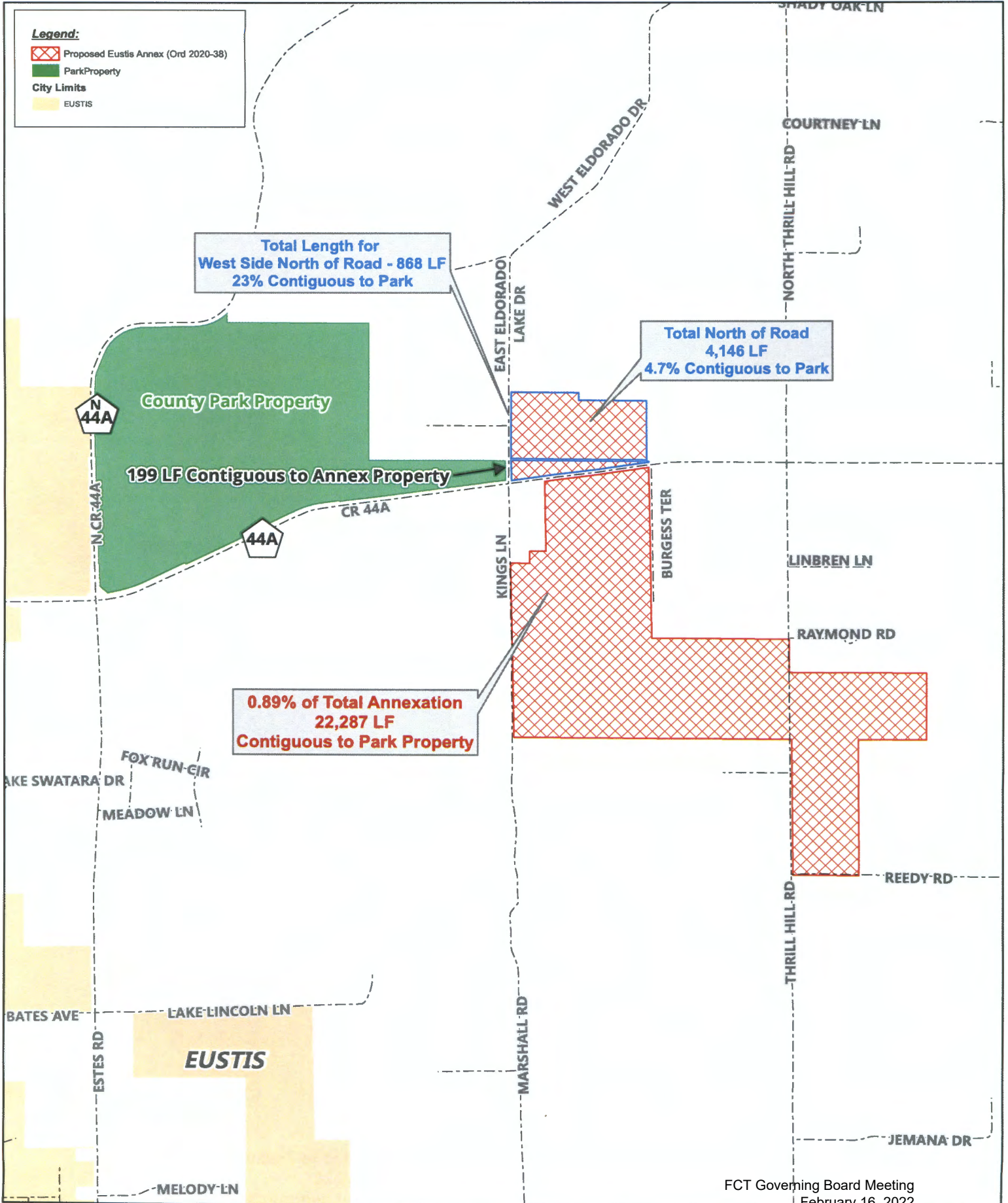
Continued/Deferred Until:

Other:





Proposed Eustis Annex Percentage Contiguous to Park



**BOARD OF COUNTY COMMISSIONERS
LAKE COUNTY, FLORIDA
OFFICE OF THE COUNTY MANAGER
AGENDA ITEM COVER SHEET**

DATE: 11/27/2020
TO: Jeff Cole, County Manager
THRU:

MEETING DATE: 12/1/2020
ITEM TYPE: Other

ITEM ID: 12764

BY: Michelle Wilkinson, Property Manager
SUBJECT: Resolution Conveying a Portion of Alternate Key 3672046 to the Elaine Berol Taylor and Scott Bevan Taylor Foundation for conservation purposes.

RECOMMENDATION/REQUIRED ACTION:

Request approval of a resolution conveying a portion of Alternate Key 3672046 to the Elaine Berol Taylor and Scott Bevan Taylor Foundation for conservation purposes. There is no fiscal impact. Commission District 5.

BACKGROUND SUMMARY: On November 17, 2020, the Board of County Commissioners authorized the conveyance of a 25-foot strip of property in Lake May Reserve to be recorded no later than December 2, 2020. The associated resolution is attached.

Fiscal Impact:

Account No.:

Advertised Date:

Paper:

Attachments:

1.	Resolution for Property Donation_final
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STAFF APPROVALS AND DATES:

Michelle Wilkinson

Created/Initiated - 11/27/2020

Melanie Marsh

Approved - 11/27/2020

Angela Harrold

Final Approval - 11/27/2020

ACTION TAKEN BY BOARD:

Action: New

Continued/Deferred Until:

Other:

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RESOLUTION NO. 2020-

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF LAKE COUNTY, FLORIDA, CONVEYING A PORTION OF ALTERNATE KEY 3672046 TO THE ELAINE BEROL TAYLOR AND SCOTT BEVAN TAYLOR FOUNDATION FOR CONSERVATION PURPOSES.

WHEREAS, the Board of County Commissioners owns real property generally located at the northeast corner of North CR44A and CR44A (a/k/a Alt Key 3672046) (“Property”); and

WHEREAS, County has agreed to convey a portion of the Property to the Elaine Berol Taylor and Scott Bevan Foundation (“Foundation”) to be used for conservation purposes (“Conservation Property”).

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Lake County, Florida that:

Section 1. A portion of real property legally described in **Exhibit A**, attached hereto and incorporated herein, shall hereby be conveyed to the Foundation for conservation purposes. Regardless of the actual value of the property, the Board has determined that the price of such property shall be \$0. The Board has further determined that this conveyance is for the purposes of community interest and welfare.

Section 2. A County Deed and any other required closing documents shall be executed by the Chairman of the Board and forwarded to the Foundation. Recording fees shall be paid by the County.

1 **DONE AND RESOLVED** this _____ day of _____, 2020.

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BOARD OF COUNTY COMMISSIONERS

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Leslie Campione, Chairman

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This _____ day of _____, 2020.

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12 ATTEST:

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Gary J. Cooney, Clerk
Board of County Commissioners
of Lake County, Florida

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21 Approved as to form and legality:

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Melanie Marsh
County Attorney

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EXHIBIT A- PAGE 1 OF 2

PROJECT: LAKE MAY PRESERVE
 OWNER: LAKE COUNTY
 PARCEL NO.: 32-18-27-0003-000-00600
 ALTERNATE KEY: 3672046

SKETCH OF DESCRIPTION

LEGEND:

- | | |
|-------------------------------------|-----------------------------------|
| △ = DESCRIPTIVE POINT | PCC = POINT OF COMPOUND CURVATURE |
| ⊕ = CENTERLINE | PG. = PAGE |
| AK# = ALTERNATE KEY NUMBER | P.O.B. = POINT OF BEGINNING |
| C# = CURVE NUMBER (SEE CURVE TABLE) | P.O.C. = POINT OF COMMENCEMENT |
| DB = DEED BOOK | PRC = POINT OF REVERSE CURVATURE |
| DWG. = DRAWING | PT = POINT OF TANGENCY |
| L# = LINE NUMBER (SEE LINE TABLE) | R = RANGE |
| F.B. = FIELD BOOK | R/W = RIGHT-OF-WAY |
| ORB = OFFICIAL RECORDS BOOK | SEC. = SECTION |
| PB = PLAT BOOK | T = TOWNSHIP |
| PC = POINT OF CURVATURE | |

DESCRIPTION:

A PARCEL OF LAND LYING WITHIN GOVERNMENT LOT 1, SECTION 5, TOWNSHIP 19 SOUTH, RANGE 27 EAST, LAKE COUNTY, FLORIDA. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SAID GOVERNMENT LOT 1 OF SECTION 5, TOWNSHIP 19 SOUTH, RANGE 27 EAST; THENCE N89°43'39"W, ALONG THE NORTH LINE OF SAID GOVERNMENT LOT 1, 25.01 FEET, TO THE WEST RIGHT-OF-WAY LINE OF EAST ELDORADO LAKE DRIVE AND THE POINT OF BEGINNING; THENCE S01°11'32"E, ALONG SAID RIGHT-OF-WAY LINE, 220.63 FEET, TO THE NORTHERLY MAINTAINED RIGHT-OF-WAY LINE OF EAST COUNTY ROAD 44A; THENCE S82°10'14"W, ALONG SAID NORTHERLY MAINTAINED RIGHT-OF-WAY LINE, 25.17 FEET; THENCE N01°11'32"W, 224.17 FEET, TO THE AFOREMENTIONED NORTH LINE OF GOVERNMENT LOT 1; THENCE S89°43'39"E, ALONG THE NORTH LINE OF SAID GOVERNMENT LOT 1, 25.01 FEET, TO THE POINT OF BEGINNING.

CONTAINING 0.12764 ACRES (5,560 SQUARE FEET), MORE OR LESS.


NOTES:

1. BEARINGS SHOWN HEREON ARE BASED ON FLORIDA STATE PLANE COORDINATE SYSTEM, EAST ZONE, NORTH AMERICAN DATUM OF 1983 (2011) WITH THE NORTH LINE OF GOVERNMENT LOT 1, SECTION 5, TOWNSHIP 19 SOUTH, RANGE 27 EAST, BEARING S89°43'39"E.
2. THIS "SKETCH OF DESCRIPTION" WAS PERFORMED WITHOUT THE BENEFIT OF A LEGAL OPINION OF TITLE WHICH MAY REVEAL ADDITIONAL INFORMATION AFFECTING THE PARCEL(S) AS SHOWN HEREON.
3. I HEREBY CERTIFY THAT THE "SKETCH AND DESCRIPTION" OF THE ABOVE DESCRIBED PROPERTY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AS DRAWN UNDER MY DIRECTION AND THAT IT MEETS THE STANDARDS OF PRACTICE FOR LAND SURVEYING PURSUANT TO CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE.
4. THIS SKETCH AND DESCRIPTION OR THE COPIES THEREOF ARE NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OR ORIGINAL DIGITAL SIGNATURE OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
5. CHAPTER 5J-17.050-.052, FLORIDA ADMINISTRATIVE CODE REQUIRES THAT A LEGAL DESCRIPTION DRAWING BEAR THE NOTATION THAT: THIS IS NOT A SURVEY.



Digital signature and seal as regulated under Chapter 5J-17.062 Florida Administrative Code

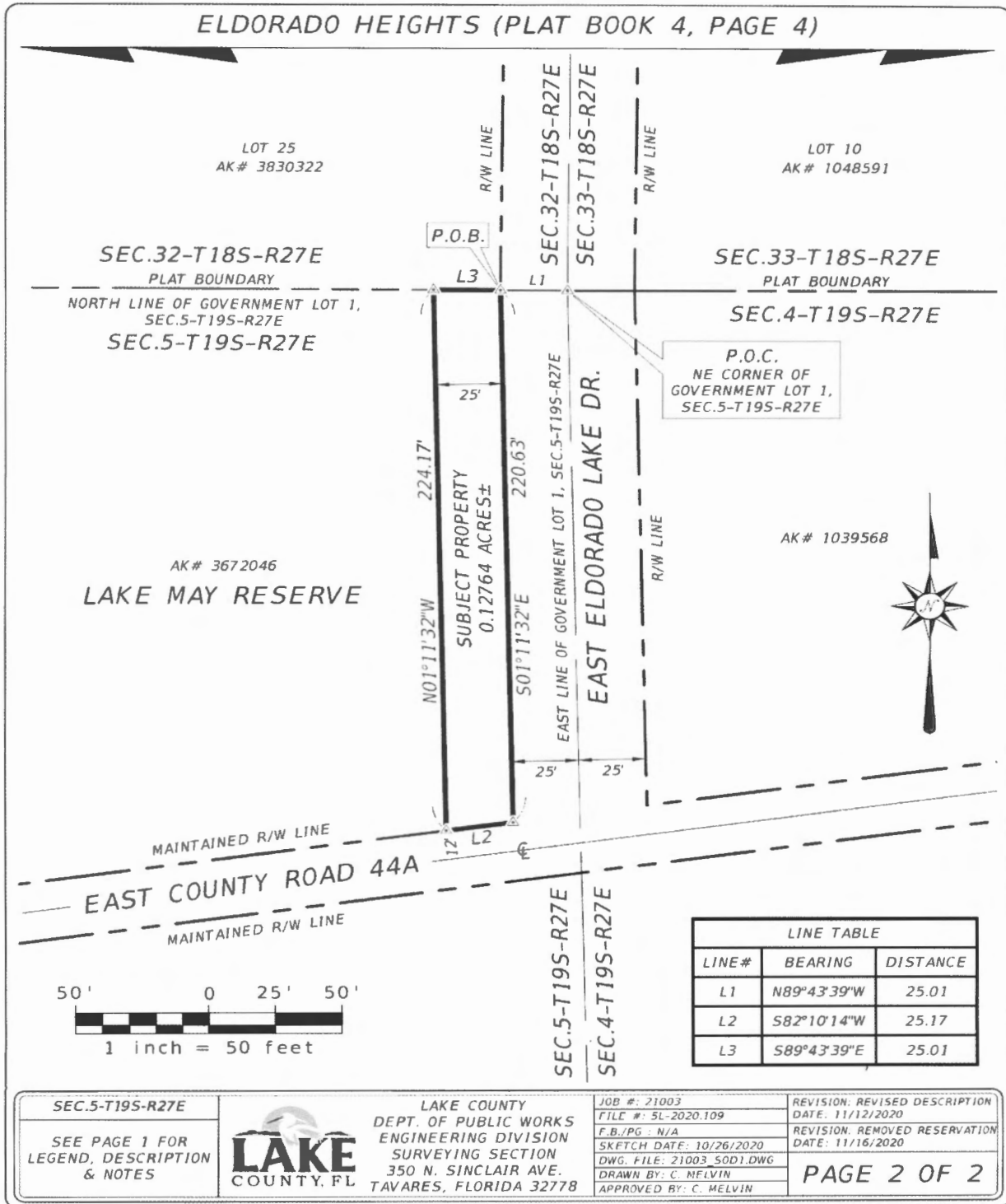
CARY M. MELVIN, FLORIDA PROFESSIONAL SURVEYOR AND MAPPER LICENSE NO. 6329

SEC.5-T195-R27E	 LAKE COUNTY DEPT. OF PUBLIC WORKS ENGINEERING DIVISION SURVEYING SECTION 350 N. SINCLAIR AVE. TAVARES, FLORIDA 32778	JOB #: 21003	REVISION: REVISED DESCRIPTION
SEE PAGE 2 FOR SKETCH		FILE #: 5L-2020.109	DATE: 11/12/2020
		F.B./PG: N/A	REVISION: REMOVED RESERVATION
		SKETCH DATE: 10/26/2020	DATE: 11/16/2020
		DWG. FILE: 21003_SOD1.DWG	PAGE 1 OF 2
		DRAWN BY: C. MELVIN	
		APPROVED BY: C. MELVIN	

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EXHIBIT A- PAGE 2 OF 2



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Cecelia Bonifay

Akerman LLP
420 South Orange Avenue
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Orlando, FL 32801-4904

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T: 407 423 4000
F: 407 843 6610
DirF: 407 254 4230
cecilia.bonifay@akerman.com

May 17, 2021

By Email (Rebecca.Wood@FloridaDEP.gov)
and First Class U.S. Mail

Ms. Rebecca Wood, Program Manager
Florida Department of Environmental Protection
Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, FL 32399

Re: Lake County's Unlawful Conveyance of a Portion of the Lake May Reserve ("Reserve")

Dear Manager Wood:

My client, the Carol L. Harper Living Trust ("Trust"), has been diligently pursuing the annexation of its property (Lake County Parcel ID No.: parcel identification number 04-19-27-0002-000-00600, alternate key number 1039568; parcel identification number 32-18-27-02-0000-000-00800, alternate key number 1048591; and parcel identification number 32-18-27-02-0000-000-01100, alternate key number 3028368, collectively, the "Property"; and, the identification number for the Reserve, in case you need it, is 32-18-27-0003-000-00600, alternate key number 3672046) into the boundary of the City of Eustis, but is presently precluded from doing so solely as a result of Lake County improperly deeding a piece of the adjoining public park to an unqualified recipient for the sole purpose of preventing the annexation of my client's property.

As this action has been acknowledged by the DEP as improper, we are of the opinion that the annexation of the Trust property into the City of Eustis should continue uninterrupted as if the improper transfer had never occurred.

Ms. Rebecca Wood

May 17, 2021

Page 2.

We would appreciate the DEP confirming its agreement with the above analysis via a written reply to this correspondence. Your prompt attention to this matter is greatly appreciated.

Sincerely,



Cecelia Bonifay

CB/brm

cc: Rita Ventry and Lois LaSeur
Melanie Marsh, County Attorney
Derek A. Schroth
Ronald Neibert
Lori Barnes



County Attorney's Office

David Langley
Assistant County Attorney
dlangley@lakecountyfl.gov

Melanie Marsh*
County Attorney
mmarsh@lakecountyfl.gov

Nicole Blumenauer
Assistant County Attorney
nblumenauer@lakecountyfl.gov

*Board Certification in City, County and Local Government Law

May 18, 2021

Via Email Only to Rebecca.Wood@FloridaDEP.gov

Ms. Rebecca Wood, Program Manager
Florida Department of Environmental Protection
Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, FL 32399

RE: Response to Ms. Bonifay's Letter Dated May 17, 2021; Lake May Reserve

Dear Ms. Wood:

Lake County has been copied on a letter sent yesterday to you from Ms. Cecelia Bonifay in her capacity as legal counsel for the Carol L. Harper Living Trust. Although a response from the County is most likely not necessary for obvious reasons, I respectfully submit this letter to make sure that FDEP has the most current information.

The Carol L. Harper Living Trust has a pending lawsuit against Lake County. The lawsuit is challenging the transfer of a portion of Lake May to the Taylor Foundation. As I am sure your legal counsel will advise you, the court is the proper jurisdiction to determine the legality of the transfer. In fact, the court has already opined that Lake County has the same right to convey its property as other private property owners. A copy of the Order on Plaintiff's Emergency Motion for Temporary Injunction is included with this letter for reference. Additionally, whether the City of Eustis should continue the annexation process is a decision to be made by the City of Eustis with the assistance of the City Attorney.

P.O. Box 7800 • 315 W. Main St., Suite 335 • Tavares, FL 32778 • P 352.343.9787 • F 352.343.9464

Board of County Commissioners • www.lakecountyfl.gov

Douglas B. Shields
District 1

Sean M. Parks, AICP, QEP
District 2

Kirby Smith
District 3

Leslie Campione
District 4

Josh Blake
FCT Governing Board Meeting
February 16, 2022
Page 70 of 103

Therefore, the County respectfully requests that FDEP remain neutral as to Ms. Bonifay's letter as it seeks an opinion on legal issues that are outside the agency's jurisdiction.

Sincerely,



Melanie Marsh
County Attorney

MM/na
Attachment

cc: Cecelia Bonifay, Counsel for the Carol L. Harper Trust {via email only}
Samual Miller, Counsel for the Carol L. Harper Trust {via email only}
Thu Pham, Counsel for the Carol L. Harper Trust {via email only}
Ronald Neibert, City of Eustis {via email only}
Lori Barnes, City of Eustis {via email only}
Derek Schroth, Counsel for City of Eustis {via email only}
Rita Ventry, Department of Environmental Protection {via email only}
Lois Laseur, Department of Environmental Protection {via email only}

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT,
IN AND FOR LAKE COUNTY, FLORIDA

CAROLE L. HARPER, as TRUSTEE
OF CAROLE L. HARPER LIVING
TRUST, a Florida Trust,
Plaintiff,

CASE NO: 35-2020-CA-001853-A

v.

LAKE COUNTY FLORIDA, a
non-charter county and political
subdivision of the State of Florida,
Defendant.

ORDER PLAINTIFF'S EMERGENCY MOTION FOR TEMPORARY INJUNCTION

THIS CAUSE, having come before this Court on Plaintiff's *Emergency Motion for Temporary Injunction* filed on November 25th, 2020, and the Court, having heard arguments of counsel for both parties on November 30th, 2020, and being otherwise being fully advised in the premises, finds as follows:

The well-established requirements for the issuance of a temporary injunction are: (1) the likelihood of irreparable harm and the unavailability of an adequate remedy at law; (2) a substantial likelihood of success on the merits; (3) that the threatened injury to the petitioner outweighs any possible harm to the respondent; and, (4) the entry of the injunction will not disserve the public interest. *See Angelino v. Santa Barbara Enters., LLC*, 2 So.3d 1100 (Fla. 3d DCA 2009); *Miami-Dade County v. Fernandez*, 905 So.2d 213 (Fla. 3d DCA 2005). When a party seeking a temporary injunction has failed to satisfy one of the requirements for the issuance of an injunction, it is unnecessary for the Court to comment on the remaining requirements. *See Biscayne Park, LLC v. Wal-Mart Stores E., LP*, 34 So. 3d 24, 27 (Fla. 3d DCA 2010). Moreover, a temporary injunction "should be granted only sparingly and only after the moving party has alleged and proved facts

entitling it to relief.” *Morgan v. Herff Jones, Inc.*, 883 So.2d 309, 313 (Fla. 2d DCA 2004).

Additionally, Florida courts have found that when an alleged injury is speculative that it is insufficient to meet the irreparable injury standard. *See Jacksonville Elec. Auth. v. Beemik Builders & Constructors, Inc.*, 487 So.2d 372, 373 (Fla. 1st DCA 1986) (“Irreparable injury will never be found where the injury complained of is ‘doubtful, eventual, or contingent.’”), quoting *First Nat’l Bank in St. Petersburg v. Ferris*, 156 So.2d 421, 424 (Fla. 2d DCA 1963).

Plaintiff has argued she has a right to have her property annexed by the City of Eustis. While she has a clear, legal right to petition for annexation, and only the second reading of the ordinance stands in her way to approval, there is at this time no guarantee the parcels would be annexed. Additionally, if the County were to transfer its property, there is no indication that the County could not agree to reclaim the property later, making the argument of irreparable harm contingent and speculative.

The actual Complaint is a request for declaratory relief based upon several irregularities the Plaintiff finds with the proposed transfer. Some of the irregularities were addressed during the hearing, but some were not, which makes it impossible to determine if the Plaintiff indeed has a substantial likelihood on the merits of the lawsuit.

As to the weighing of harms; if the County is not enjoined from transferring its property, the Plaintiff will lose the contiguity to the City of Eustis and will not be eligible for the parcels to be annexed. Yet, Plaintiff may still develop her land pursuant to County regulations, not develop the land, sell her land, or wait and see if the County reclaims the land they are intending to transfer, giving her another chance to petition for annexation. However, if the County is enjoined, and the parcels are annexed, the County alleges the unincorporated residents will be negatively impacted by the potential annexation. Ostensibly, this is because the County and the City have no joint

plan at this time to provide “vital utilities and emergency services.” Defendant’s Response, para. 8. If proven, the Court finds the County’s harm would outweigh the Plaintiff’s harm.

Finally, the Plaintiff has failed to make prima facie showing of public interest. The Plaintiff argued the public interest is served by requiring the County to comply with the procedures set forth in Section 171.081(2), Florida Statutes, which would afford the County the opportunity to file a Petition for Writ of Certiorari if the parcels are annexed. This is the prescribed remedy for the County to invalidate the annexation. This Court can find no legal basis for the County to be enjoined from transferring its property prior annexation. In fact, the public interest is better served to allow the County to legally do with its property that which it feels best serves the public over allowing a private landowner to enjoin the County from transferring its own property.

Based on the above, it is **ORDERED** and **ADJUDGED** that Plaintiff’s *Emergency Motion for Temporary Injunction* is **DENIED**.

DONE AND ORDERED in chambers at Tavares, Lake County, Florida this 30 day of November, 2020.

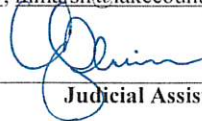


HEIDI DAVIS, Circuit Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 30 day of November, 2020, I electronically filed the foregoing document with the Clerk of Court using the Florida Courts E-Filing Portal. I also certify that the foregoing document is being served this day on all counsel of record and interested parties, via transmission generated by the Florida Courts E-Filing Portal.

Samual A. Miller, Esquire – samual.miller@akerman.com; Barbara.morrison@akerman.com; Cecelia.bonifay@akerman.com; thu.pham@akerman.com; lisa.jefferson@akerman.com
David M. Langley, Esquire – dlangley@lakecountyfl.gov; mmarsh@lakecountyfl.gov
slara@lakecountyfl.gov



Judicial Assistant

July 13, 2021

VIA ELECTRONIC MAIL (Rebecca.Wood@floridadep.gov)

Ms. Rebecca Wood, Program Manager
Florida Department of Environmental Protection
Majory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399

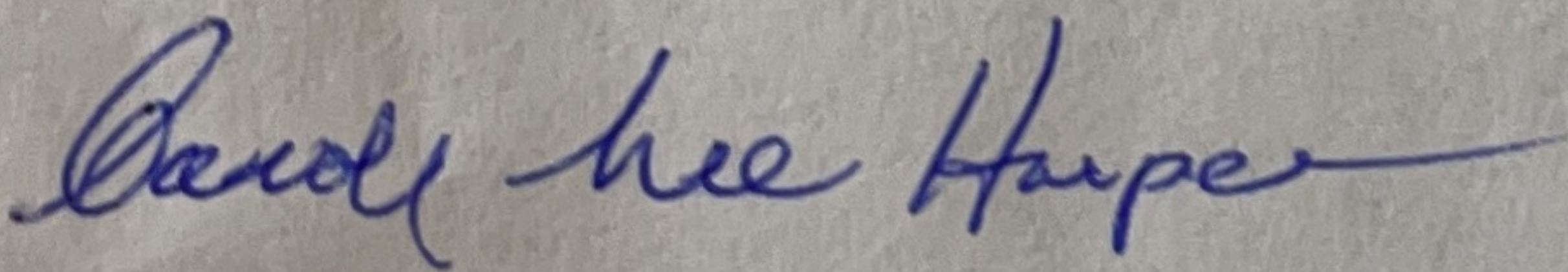
RE: Lake May Reserve, FCT Project #11-007-FF11

Dear Ms. Wood –

I am the owner of that certain parcel of property being identified by Lake County Parcel ID No.: 04-19-27-0002-000-00600; 32-18-27-0200-000-00800 & 32-18-27-0200-000-01100, which relates to, or is otherwise directly affected by, that certain matter pending as FCT Project #11-007-FF11 (the "Project"). Please accept this correspondence as my request that the Project be heard and considered on the August 2021 Agenda by the Florida Communities Trust.

For additional background information, I am desirous of annexing my property into the City of Eustis but have been prohibited from pursuing annexation as a result of Lake County improperly deeding a parcel of the public park to an unqualified recipient.

Very sincerely,



Carole Lee Harper

July 13, 2021

VIA ELECTRONIC MAIL (Rebecca.Wood@floridadep.gov)

Ms. Rebecca Wood, Program Manager
Florida Department of Environmental Protection
Majory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399


RE: Lake May Reserve, FCT Project #11-007-FF11

Dear Ms. Wood –

I am the owner of that certain parcel of property being identified by Lake County Parcel ID No.: 04-19-27-0100-000-01700 & 04-19-27-0004-000-01800, which relates to, or is otherwise directly affected by, that certain matter pending as FCT Project #11-007-FF11 (the "Project"). Please accept this correspondence as my request that the Project be heard and considered on the August 2021 Agenda by the Florida Communities Trust.

For additional background information, I am desirous of annexing my property into the City of Eustis but have been prohibited from pursuing annexation because of Lake County improperly deeding a parcel of the public park to an unqualified recipient.

Very sincerely,

 PRESIDENT
Mark Simpson
President
Mount Dora Groves Co., Inc.



July 20, 2021

Attention: Florida Communities Trust Governing Board Members
Callie DeHaven
Gregory Jones
Deborah Denys
Frank Mingo

Re: August 25, 2021 Quaterly Meeting Agenda
FCT Board Consideration of Lake May Reserve,
FCT Project #11-007-FF11

Clients: Jerry and Lisa Brown

C/O: Rebecca Wood

Via Electronic Mail: FloridaCommunitiesTrust@floridadep.gov;
Rebecca.Wood@floridadep.gov

Dear Florida Communities Trust Governing Board Members:

Please accept this letter as a formal request that the Florida Communities Trust Governing Board address Lake County's invalid transfer of lands acquired with state funds at the August 25, 2021 Quaterly Meeting. My clients desire the City of Eustis annex their property into the city, but have been wrongfully prohibited from doing so because Lake County violated their Florida Communitis Trust grant by transferring a 25 foot strip of land in the Lake May Reserve the Elaine Berol Taylor and Scott Bevan Taylor Foundation.

As noted in Exhibit A of this request, Lake County has violated the terms of their grant by their invalid transfer. In order to get back into compliance Lake County must retain possession of the property. Please hear and consider FCT Project #11-007-FF11 and place it on the agenda for August 25, 2021 Quarterly of the Florida Communities Trust. Thank you for your considerartion.

Sincerely,

/s/ William N. Spicola
William N. Spicola
Florida Bar Number:70732
Post Office Box 664
Tallahassee, FL 32302
(850)-895-1056
William@KomisarSpicola.com
Counsel for Jerry and Lisa Brown

Exhibit 1

February 23, 2021

Melanie Marsh
County Attorney, Lake County
315 W. Main Street, Ste. 335
Tavares, FL 32778

Via certified mail and email: mmarsh@lakecountyfl.gov

Ms. Marsh:

The Florida Communities Trust (“FCT”) has received Lake County’s after-the-fact request to transfer ownership of a strip of land in the Lake May Preserve to the Elaine Berol Taylor and Scott Bevan Taylor Foundation (“Foundation”).

Grants under the auspices of the Florida Communities Trust are governed by the provisions of Chapter 380, Part III, Florida Statutes. Section 380.502(3)(b) states that the intent of the program is to provide “financial and technical assistance to local governments, state agencies, and nonprofit organizations” to carry out the purposes of the program. Section 380.503(5) defines a nonprofit organization as “any private nonprofit organization, existing under the provisions of §501(c)(3) of the United States Internal Revenue Code, which has among its principal goals the conservation of natural resources or protection of the environment” (emphasis added).

Based on the documents provided by the county, the Foundation may, within the trustee’s sole discretion, pursue any activities recognized by the Internal Revenue Service as charitable. There is nothing in the documents creating the trust that requires the trustee to promote conservation of natural resources or protection of the environment or makes these activities a principal goal of the trust. Under these circumstances, the Foundation would not meet the definition of an eligible applicant for FCT funds or qualify for ownership of FCT-funded property. Based on the information currently available to the FCT staff, the county has violated the covenants and restrictions on the property by conveying a portion of the Preserve to a non-eligible recipient.

Based on the above, the county has several options. If the Foundation does have conservation of natural resources or protection of the environment as one of its

principal goals, then you should provide evidence of that to the FCT staff. If not, the county may choose another nonprofit organization that does meet those requirements to take ownership of the property. FCT would need to approve the instrument that transfers ownership, and the nonprofit would need to enter a contract with the FCT and record covenants and restrictions similar to those currently on the property. Alternatively, the county may choose to pursue a land exchange under Rule 62-818.016, Florida Administrative Code. Any of these options will bring the county back into compliance with the grant agreement and the covenants and restrictions on the property.

As I am sure you are aware, the covenants and restrictions on the site provide that if the county violates those restrictions, the site reverts to the Board of Trustees of the Internal Improvement Trust Fund. Thus, it is critical that the county provide the FCT with a plan to bring this grant back in compliance. Please let us know how you plan to proceed within the next 30 days.

Respectfully,

A handwritten signature in cursive script that reads "Rebecca S. Wood".

Rebecca S. Wood
Program Manager

April 22, 2021

Melanie Marsh
County Attorney, Lake County
315 W. Main Street, Ste. 335
Tavares, FL 32778

Via email: mmarsh@lakecountyfl.gov

Ms. Marsh:

The Florida Communities Trust ("FCT") received Lake County's response to FCT's non-compliance letter of February 23, 2021, regarding partial conveyance of the FCT project site to the Elaine Berol Taylor and Scott Bevan Taylor Foundation. Your timely response is appreciated.

To cure the noncompliance, the county identified the Friends of Wekiva River, Inc. (FWOR) as a possible transferee of the 25' strip of land in question. While FCT staff believes FWOR is an eligible nonprofit FCT recipient which has the conservation of natural resources or protection of the environment among its principal goals, section 380.510(3)(b), Florida Statutes, states "the transfer of land acquired with a trust grant or loan **shall be subject to the approval of the trust**, and the trust shall enter into a new agreement with the transferee, containing such covenants, reverter clauses, or other restrictions as are sufficient to protect the interest of the people of Florida."

Resolution of this matter requires FCT board action because correspondence opposing the transfer has been received. The FCT board currently has three vacancies which creates a lack of quorum and no board meetings are currently scheduled. FCT staff will advise of the next scheduled board meeting at which this item may be presented.

Respectfully,



Rebecca S. Wood
Program Manager

cc: Derek A. Schroth, Esquire (dschroth@bowenschroth.com)
William N. Spicola, Esquire (William@WilliamSpicolaPA.com)
Samual A. Miller, CFE (samual.miller@akerman.com)

From: [Ben Snyder](#)
To: [Wood, Rebecca](#)
Cc: [William Spicola](#)
Subject: Re: Lake May Reserve matter info
Date: Tuesday, September 28, 2021 10:03:14 AM

EXTERNAL MESSAGE

This email originated outside of DEP. Please use caution when opening attachments, clicking links, or responding to this email

Great, thanks Rebecca.

Thanks,

Ben Snyder
VP Land
Hanover Land Company
407-702-9226 (cell)

From: Wood, Rebecca <Rebecca.Wood@FloridaDEP.gov>
Sent: Tuesday, September 28, 2021 9:08:40 AM
To: Ben Snyder <bsnyder@hcpland.com>
Cc: William Spicola <william@komisarspicola.com>
Subject: RE: Lake May Reserve matter info

Thank you for the information, we will be sure to pass along to the FCT Board members.

From: Ben Snyder <bsnyder@hcpland.com>
Sent: Friday, September 24, 2021 9:10 AM
To: Wood, Rebecca <Rebecca.Wood@FloridaDEP.gov>
Cc: William Spicola <william@komisarspicola.com>
Subject: FW: Lake May Reserve matter info

EXTERNAL MESSAGE

This email originated outside of DEP. Please use caution when opening attachments, clicking links, or responding to this email

Mrs. Wood,

I talked with Greg Jones and Noah as well on this matter. They asked that you send them the attached info and summary below. Can you also send it to Mrs. DeHaven? Will can drop a hard copy of the info off for Noah if it is helpful. Again, we request that this matter be heard at the December meeting if at all possible. Please let me know if you have any questions on the matter or need additional information. I appreciate your assistance in helping resolve this issue.

A detailed summary is attached from Mr. William Spicola. I would like to give you the 5,000 foot summary.

If you will open the map attached, you will see the City of Eustis boundary in magenta, the Lake May Reserve park in yellow, the spike strip that the county deed to an unqualified private group without going through proper process of divestment of public lands in red, Carole Harper's property in green, Jerry Brown's property and affiliated entities in orange and the Mount Dora Groves property in purple. The Harper, Brown and Mt. Dora Groves properties were all going through the annexation process together and using the Lake May Reserve park and contiguity to the city as permitted in state statutes. The first reading of the annexation and Future Lake Use change was approved unanimously by the Eustis City Commission in October of 2020. It was transmitted to the state where it was approved for adoption by the city with no comments. However, 2 days before the City Commission could adopt the annexation, the Lake County Board of County Commissioners called a special meeting in order to deed a 25' spike strip to a private group and break the continuity of the property owners to the city. Lake County did not go through the proper process for divestment of public lands, nor did they receive permission from the FCT Board to transfer the property which is in violation of the trust documents used to grant the money to the county in order to buy the park. We have had correspondence with the State who has acknowledged the transfer as improper.

We request that you review this info and the more detailed info attached and at the meeting in December or February, require the Lake County to take the spike strip back and restore the connectivity of these property owners to the City of Eustis.

Please let me know of any questions you have after you have had a chance to review the attached info.

Again, I appreciate your time and consideration of this mater.

Ben Snyder
VP Land
Hanover Land Company
605 Commonwealth Ave
Orlando, FL 32803
407-702-9226 (cell)



ITEM 6: Request by Miami-Dade County for FCT Approval of an Amendment to an Agreement to Certify FCT Lands in Biscayne Coastal Wetlands, Tract A, FCT# 98-023-P8A for the Comprehensive Everglades Restoration Program (CERP)

Bill Bibby

REQUEST: Miami-Dade County Environmentally Endangered Lands requests FCT approval of a proposed amendment to an agreement to certify additional lands in the Biscayne Bay coastal wetlands area. The amendment will allow for hydrologic restoration and flowage of water on County-owned lands. The restoration work will be done by the US Army Corps of Engineers (Army Corps). A portion of the lands in question were acquired with the assistance of a Florida Communities Trust Preservation 2000 grant, Biscayne Coastal Wetlands, Tract A, FCT project number 98-023-P8A.

PROJECT BACKGROUND: In June of 2018, Miami-Dade County (County) entered into a cooperative agreement with the South Florida Water Management District (District). In executing the agreement, the County agreed to certify its interest in county-owned lands to the District. The Army Corps and the District will use the certified lands for construction and operation of the CERP project. Facilities to be constructed include stormwater facilities (canals) and flowage.

The purpose of the proposed amendment is to expand the lands certified to the District for the CERP project. The amendment will certify an additional 343.01 acres to the project. Included in the additional acres are lands originally purchased by the County using FCT funds. The parcels in question are part of the FCT project titled Biscayne Coastal Wetlands, Tract A, project number 98-023-P8A. Altogether, the FCT-acquired acreage totals 105.12.

After much discussion with all parties involved, the County and District added a number of assurances requested by FCT to the proposed amendment. These include:

- Acknowledgement by the District that the County is required to manage the lands according to the FCT Grant Award Agreement and the approved Management Plan.
- Nothing in the agreement or amendment shall inhibit the County's continued management and maintenance of FCT lands.
- The District will advise the County in advance of any major land alterations so the County may secure necessary FCT approval.
- If fee simple title over the FCT lands, or any portion thereof, is required to be conveyed to the Board of Trustees of the Internal Improvement Trust Fund, the District will compensate the County and the FCT based upon fair market value for the affected lands.
- Any change to the above assurances will require County and FCT approval.

Disturbance of the FCT parcels should be limited to flowage of stormwater over the lands. FCT staff do not view this as an issue since the lands in question are primarily wetlands. Neither the Army Corps nor the District anticipate the construction of spillway canals on the FCT sites.

FCT staff and counsel approve the proposed amendment as it relates to the FCT grant project parcels. Staff will work with the County to draft and approve a revised Management Plan for the FCT site. The plan revision will reflect the certification of lands to the District for the CERP project.

STAFF RECOMMENDATION: Staff recommends approval of the Amendment.

FCT GOVERNING BOARD ACTION: MOTION AND VOTE

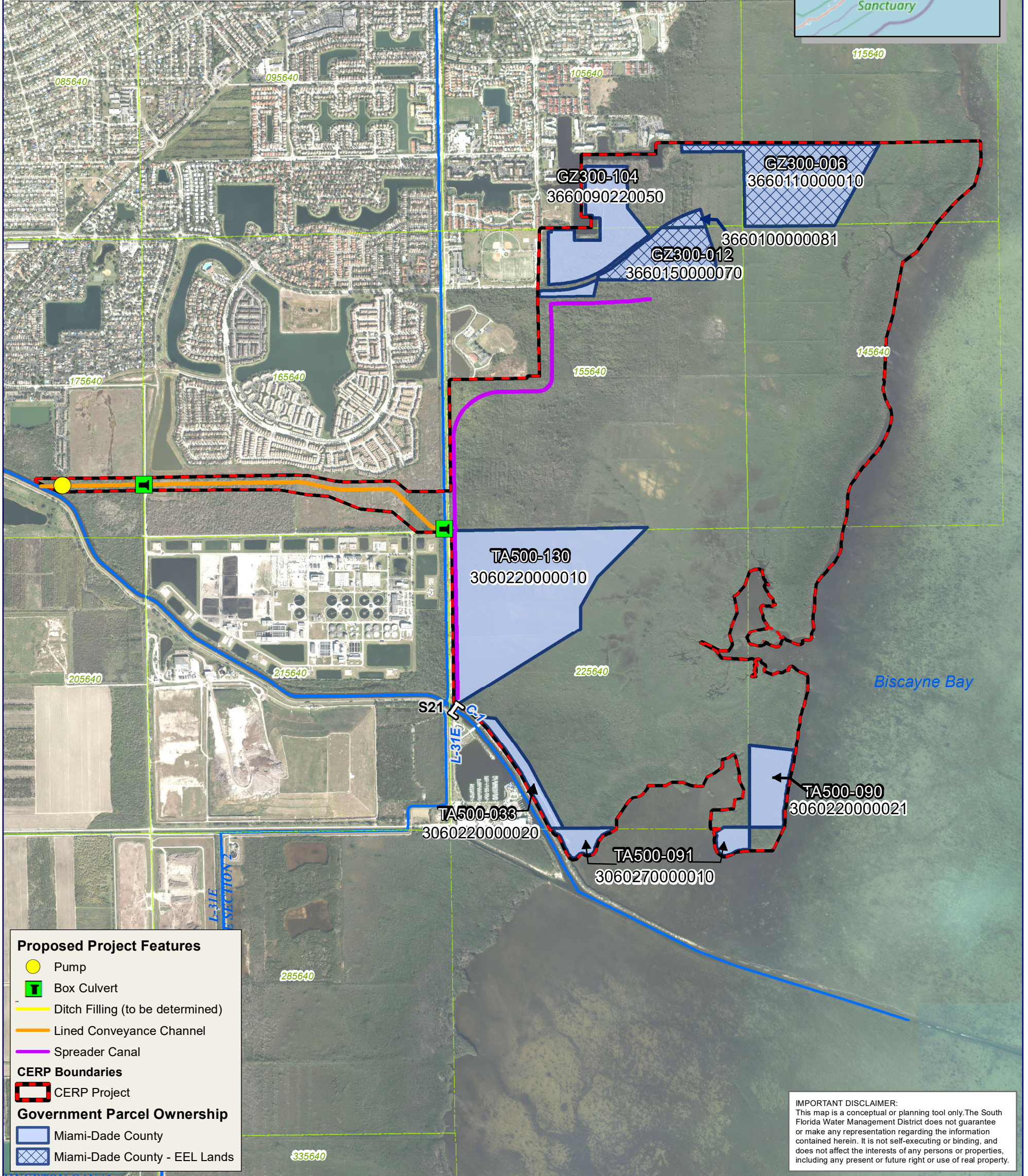
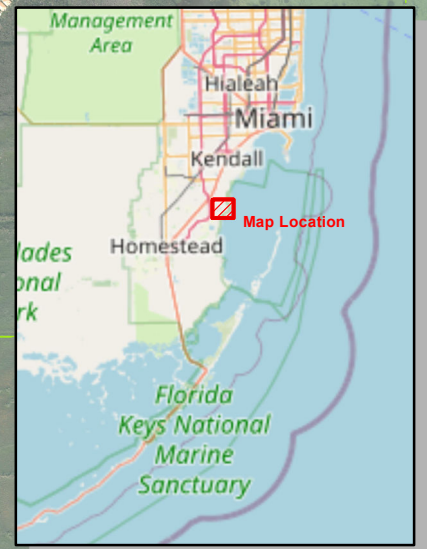
- APPROVE**
- APPROVE WITH MODIFICATIONS:**
- WITHDRAW**
- NOT APPROVE**
- OTHER:**

Motion by:

Second by:

Exhibit A-3

SFWMD Tract ID	Parcel Number	Acreage	Parcel Ownership
GZ300-006	3660110000010	70.25	Miami-Dade County - EEL Lands
GZ300-012	3660100000081	3.24	Miami-Dade County - EEL Lands
GZ300-012	3660150000070	31.63	Miami-Dade County - EEL Lands
GZ300-104	3660090220050	47.33	Miami-Dade County
TA500-033	3060220000020	11.07	Miami-Dade County
TA500-130	3060220000010	143.79	Miami-Dade County
TA500-090	3060220000021	22.23	Miami-Dade County
TA500-091	3060270000010	13.47	Miami-Dade County
Total Acres Miami-Dade:		343.01	



Proposed Project Features

- Pump
- Box Culvert
- Ditch Filling (to be determined)
- Lined Conveyance Channel
- Spreader Canal

CERP Boundaries

- CERP Project

Government Parcel Ownership

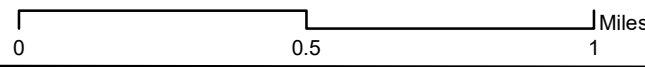
- Miami-Dade County
- Miami-Dade County - EEL Lands

IMPORTANT DISCLAIMER:
 This map is a conceptual or planning tool only. The South Florida Water Management District does not guarantee or make any representation regarding the information contained herein. It is not self-executing or binding, and does not affect the interests of any persons or properties, including any present or future right or use of real property.



South Florida Water Management District
 3301 Gun Club Rd, West Palm Beach, FL 33406
 561-686-8800 - FL WATS 1-800-432-2045
 P.O. Box 24680 - West Palm Beach, FL 33416-4680

BBCW Phase 1 Cutler Wetlands Miami-Dade Land Ownership Interests



IMPORTANT DISCLAIMER:
 This map is a conceptual or planning tool only. The South Florida Water Management District does not guarantee or make any representation regarding the information contained herein. It is not self-executing or binding, and does not affect the interests of any persons or properties, including any present or future right or use of real property.

Map Date: May 2021



4600003802-A01

AMENDMENT NO. 01
TO AGREEMENT NO. 4600003802
BETWEEN THE
SOUTH FLORIDA WATER MANAGEMENT DISTRICT
AND
MIAMI-DADE COUNTY
FOR THE
COMPREHENSIVE EVERGLADES RESTORATION PLAN,
BISCAYNE BAY COASTAL WETLANDS PHASE 1 PROJECT

RECITALS

WHEREAS, this **AMENDMENT NO. 01**, is entered into on _____ to that Agreement dated June 19, 2018, between the South Florida Water Management District (District), and Miami-Dade County (County) ("the Parties"), hereinafter "Agreement"; and

WHEREAS, on March 8, 2018, the Governing Board of the District approved entering into the Agreement with the County for the Project; and

WHEREAS, on January 23, 2018 the Board of County Commissioners approved an Agreement between the County and the District related to the Project and approving certification of lands by the County to the District and the United States Army Corps of the Engineers (USACE) for implementation of the Project; and

WHEREAS, the term of the Agreement is for the life of the Project as determined by the District; and

WHEREAS, the Parties wish to amend the Agreement to certify 343.01 additional acres of County-owned lands in the Cutler Wetlands Component for the Project, as shown on Exhibit A-3, Exhibit D-1, Exhibit D-2, Exhibit D-3, attached hereto (collectively, the "Additional Property"); and

WHEREAS, specifically, the Parties wish to amend the Agreement to allow: (a) implementation, construction, monitoring and for the operation, maintenance, repair, rehabilitation and replacement (OMRR&R) of the Cutler Wetlands component of the Project and (b) for the hydrologic restoration and flowage of water on County-owned lands that are identified by District Tract ID number TA500-130 (the County Water and Sewer Department lands), as shown on the map attached as Exhibit D-1; and

WHEREAS, further, the Parties wish to amend the Agreement to allow for the hydrological restoration and flowage of water on County-owned lands identified by District Tract ID numbers GZ300-006 and GZ300-012 (the County EEL lands) as shown on Exhibit D-2 attached hereto; and

WHEREAS, further, the Parties wish to amend the Agreement to allow for the hydrologic restoration and flowage of water on County-owned lands identified by District Tract ID numbers GZ300-104, TA500-033, TA500-090, and TA500-091 (the County Parks lands), as shown on Exhibit D-3 attached hereto; and

WHEREAS, Project features will overlap existing easements dedicated to the County and will overlap SW 232nd Street, SW 87th Avenue and SW 97th Avenue, which are County roads.

WHEREAS, this **AMENDMENT NO. 01** shall be effective upon the date of execution by both Parties; and

WHEREAS, this **AMENDMENT NO. 01** shall be at no cost to the County or the District.
; and

NOW, THEREFORE, for and in consideration of the mutual promises set forth herein, the adequacy of which is hereby accepted and acknowledged by the Parties, the Parties agree that the foregoing recitals are correct, and further agree as follows:

1. Within thirty (30) days of the Effective Date of this **AMENDMENT NO. 01**, the County shall execute and deliver to the District in recordable form the certification attached as Exhibit C.
2. Article III of the Agreement is amended to include the following Paragraphs 5, 6, 7, 8 and 9:
 - (5) **County-owned lands shown on Exhibit D-1 and identified by District Tract ID number TA500-130.** For the lands shown on Exhibit D-1 and identified by District Tract ID number TA500-130, once the County certifies the lands to the District, the District shall implement, construct and OMRR&R the Project for the Project's

purposes: (a) in accordance with the PPA; and (b) in a manner consistent with the Project Implementation Report. The District shall manage the Project and its features, and those lands shown on Exhibit D-1 and identified by District Tract ID number TA500-130, in a manner that avoids and minimizes damage to these wetlands. District implementation and management of the Project on the lands shown on Exhibit D-1 and identified by District Tract ID number TA500-130 are subject to District budgetary and staffing constraints.

- (6) County-owned lands shown on Exhibit D-2 and identified by District Tract ID numbers GZ300-006 and GZ300-012.** For the lands shown on Exhibit D-2 and identified by District Tract ID numbers GZ300-006 and GZ300-012, once the County certifies the lands to the District, the District shall implement, and operate, maintain, repair, replace and rehabilitate (OMRR&R) the Project for the Project's purposes: (a) in accordance with the Project Partnership Agreement (PPA); (b) in a manner consistent with the Project Implementation Report; and (c) in a manner consistent with the preservation, enhancement, restoration, conservation, and maintenance of the resource. The Project shall be managed in a manner that preserves these County owned wetlands, and any dredging, filling or any other construction work other than that needed to plug or fill drainage ditches to restore hydrology, shall be prohibited on the lands shown in Exhibit D-2 unless authorized in writing by Miami-Dade County, as property owner. District implementation and management of the Project on the lands shown on Exhibit D-2 are subject to District budgetary and staffing constraints.

The District also acknowledges that the County is currently required by the State to manage the County lands shown on Exhibit D-2 pursuant to the County's approved Grant Award Agreement with Florida Communities Trust. For the lands shown in Exhibit D-2, nothing in this Agreement or the County's certification of lands shall prevent or inhibit the County's continued management and maintenance of said land, including but not limited to the County's access to the lands, removal of exotic nonnative species, monitoring of wildlife and/or vegetation, monitoring of water quality and hydrology, installation of plants, and data collection. In addition, prior written approval of Florida Communities Trust is required for certain activities and improvements, such as native tree removal and major land alterations, and the District agrees to advise the County in advance of any proposed activities, improvements, or alterations so that the County may seek any necessary prior written approvals from Florida Communities Trust.

The County lands shown in Exhibit D-2 are also part of the County's Environmentally Endangered Lands (EEL) Program for conservation lands. The County may notify the District at any time if the County believes that the District's actions or management of the Project is not meeting County goals or objectives with respect to the County's EEL

Program or the County's approved Grant Award Agreement with Florida Communities Trust. The District will consider the County's concerns in good faith and working with the USACE will use reasonable efforts and adaptive management to address concerns by the County as well as any concerns by Florida Department of Environmental Protection (FDEP). If, pursuant to the County's Grant Award Agreement with Florida Communities Trust, fee simple title over all or a portion of the County lands shown in Exhibit D-2 is required to be conveyed to the Board of Trustees of the Internal Improvement Trust Fund, then the District agrees to provide compensation to the County based upon fair market value of the County's interest in the affected lands as determined by a certified appraisal of the land by an appraiser listed on the District's Approved Appraiser List, and reviewed and accepted by the District. The District will not be responsible for finding suitable replacement lands. Compensation shall be provided to County within one year from the date of written notice to the District by the County, subject to available funding. Should funding not be available within the current budgetary year, the District will seek the needed funding within the next fiscal year's budget.

- (7) **County-owned lands shown on Exhibit D-3 and identified by District Tract ID numbers GZ300-104, TA500-033, TA500-090, and TA500-091.** For the lands shown on Exhibit D-3 and identified by District Tract ID numbers GZ300-104 (County Folio 3660090220050), TA500-033 (County Folio 3060220000020), TA500-090 (County Folio 3060220000021), and TA500-091 (County Folio 3060270000010), once the County certifies the lands to the District, the District shall implement and operate, maintain, repair, replace and rehabilitate (OMRR&R) the Project for the Project's purposes: (a) in accordance with the PPA; and (b) in a manner consistent with the Project Implementation Report. The Project shall be managed in a manner that avoids damage to these County owned wetlands, and dredging, filling or any other construction work shall be prohibited on the lands shown in Exhibit D-3 unless authorized in writing by Miami-Dade County DERM. Removal of exotic non-native species, hydrologic restoration, and flowage of water on these lands is allowed, but shall not prohibit public recreational use of these lands or any portion thereof. District implementation and management of the Project on the lands shown Exhibit D-3, are subject to District budgetary and staffing constraints. For the lands shown in Exhibit D-3, nothing in this Agreement or the certification of lands shall be interpreted to permit or authorize the construction of any buildings or infrastructure, including but not limited to access roads, culverts, canals, paths, or structures.

Nothing in this Agreement or the County's certification of lands shall prevent or inhibit the County's continued management of the land or public recreational access and use of the lands shown on Exhibit D-3, at its expense, for public recreational use, access,

conservation land, public park recreational, research and monitoring purposes and consistent with public park purposes. Furthermore, nothing in this Agreement or the County's certification of lands shall prevent or inhibit the County from maintaining, in its discretion, the trails, roads and other park infrastructure currently owned or maintained, or constructed in the future, by the County that are located on the lands shown on Exhibit D-3 and identified by District Tract ID numbers GZ300-104, TA500-033, TA500-090, and TA500-091, and in a manner consistent with Project purposes. The District shall not impact existing park improvements and infrastructure, such as roads, parking lots, or other capital improvements; on the lands shown on Exhibit D-3 and identified by District Tract ID numbers GZ300-104, TA500-033, TA500-090, and TA500-091. The County shall retain the right to perform management, improvement, access, use and activities stated herein without prior approval from the District.

(8) County-owned lands shown on Exhibit D-3 and identified by District Tract ID numbers TA500-033, TA500-090, and TA500-091.

In addition, The District acknowledges that the parcels identified by District Tract ID numbers TA500-033 (County Folio 3060220000020), TA500-090 (County Folio 3060220000021), and TA500-091 (County Folio 3060270000010) received Land and Water Conservation Fund (LWCF) assistance for acquisition and improvements per LWCF projects numbered 12-00032, 12-00106, 12-00216; and are therefore restricted by Section 6(f)(3) of the LWCF Act for public outdoor recreational purposes. The Parties agree that the Project will supplement the natural flow of water through the wetlands within these parcels for the benefit of the wetlands and Biscayne Bay; and that based on the existing data, available water for the Project and the Project's design, these flows will not interfere with the public outdoor recreation uses on these parcels. With respect to these three parcels, the County may notify the District at any time if the County believes that the District's actions or management of the proposed project components is not meeting LWCF Act requirements for public park purposes.

The District will in good faith use reasonable efforts and adaptive management to address the concerns of the County as well as Florida Department of Environmental Protection (FDEP) or National Park Service (NPS). The District will install, at its expense, one or more hydrologic monitoring stations within the mangroves east of the County recreation facilities within District Tract ID numbers TA500-033 and/or TA500-09. These stations will collect pre- Project baseline hydrologic data before and during the construction phase and will be used to observe effects of Project operations for a minimum of three years. If the data shows that due to Project operations, increased protection is required for the existing outdoor recreation facilities within these parcels, the District, working with the USACE, shall reduce the pumping rate and consequently the flow of water to Biscayne Bay, until such time as a solution is in place

to protect the recreation uses. During the period of reduced pumping, the District working with the USACE and the County, shall design and construct one or more of the following as needed, subject to budgetary limitations of the USACE and the District:

- One or more culverts under the access road/ parking lot on Tract ID numbers TA500-033 and or TA500-09
- Increasing the elevation of the footbridge within Tract ID number TA500-033
- Increasing the elevation of portions of the access road/ parking lot on Tract ID numbers TA500-033 and or TA500-09
- Another appropriate engineering solution to prevent conversion under the LWCF Act.

If despite the efforts of the District described above, FDEP or NPS determine that, pursuant to the LWCF Act, there has been a conversion with respect these three parcels or a portion thereof, then the District agrees to purchase the affected lands based upon fair market value as determined by a certified appraisal of the land by an appraiser listed on the District's Approved Appraiser List, and reviewed and accepted by the District. The District will not be responsible for finding suitable replacement lands. Compensation shall be provided to County within one year from the date of written notice to the District by the County, subject to available funding. Should funding not be available within the current budgetary year, the District will seek the needed funding within the next fiscal year's budget.

The District assumes no responsibility for protection of County recreation facilities and uses from tides, storm events or sea level rise.

- (9) Subject to budgetary and staffing limitations of the Army Corps of Engineers and the District, the District shall maintain the Project, as well as the lands shown on Exhibit D-1, Exhibit D-2, and Exhibit D-3: (a) in accordance with the Project's OMRR&R Manual, which addresses, among other things, maintenance and repair; trash and litter control; and control of exotic nonnative species, and (b) in a manner sufficient to meet all applicable laws and regulations, local, state, and federal. For the lands shown on Exhibit D-1, Exhibit D-2, and Exhibit D-3, the District acknowledges certification of such lands in an "as is" condition, with the County assuming no responsibility for the care, repair, maintenance or improvement of these County lands for the benefit of the District except as otherwise expressed in this Agreement.
3. The County acknowledges that permanent project features (earthen embankments, concrete lined channel, or culverts) and construction activity will overlap easements dedicated to the County for utilities and future roads within or adjacent to lands now owned by the

District. The County also acknowledges that project features will be constructed under and within existing County Roads and the County's SW 87th Street Canal. The District's project design shall accommodate the existing utilities, the County's canal, and public roads. OMRR&R of Project features is the District's responsibility.

4. Within 180 days of the Effective Date of this **AMENDMENT NO. 01**, the County will grant to the District a permanent Channel Improvement Easement encumbering the property described below for the construction, implementation and OMRR&R of project features within:
 - a. That portion of a Miami-Dade County SW 87th Street canal right of way located within the East 63.0 feet of the South 200.0 feet of Section 16, Township 56 South, Range 40 East, and the East 63.0 feet of the North 150.0 feet of Section 21, Township 56 South, Range 40 East.
 - b. That portion of the right of way for SW 232nd Street located within the East 400.0 feet of Section 16, Township 56 South, Range 40 East, and the East 150.0 feet of Section 21, Township 56 South, Range 40 East.

The Channel Improvement Easement shall include the following language: A perpetual and assignable right and easement to construct, operate and maintain channel improvement works on, over and across (*the land described*) for the purposes as authorized by the Water Resource Development Act (WRDA) 2014, including the right to clear, cut, fell, remove, and dispose of any and all timber, trees, underbrush, buildings, improvements, and/ or other obstructions there from; to excavate, dredge, cut away, and remove any or all of said land and to place thereon dredge, spoil, or fill material; and for such other purposes as may be required in connection with said work of improvement; reserving however to the owners, their heirs and assigns, all such rights and privileges as may be used without interfering with or abridging the rights and easement hereby required; subject however to existing easements for public roads and highways, public utilities, railroads and pipelines.

5. All other terms and conditions of the Agreement remain unchanged.

IN WITNESS WHEREOF, the Parties or their duly authorized representatives hereby execute this **AMENDMENT NO. 01** on the date first written above.

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT
BY ITS GOVERNING BOARD**

By: _____
Drew Bartlett, Executive Director

By: _____
**Candida Heater, Director
Administrative Services Division**

SFWMD OFFICE OF COUNSEL
APPROVED AS TO LEGAL FORM

BY: _____

PRINT NAME: _____

DATE: _____

SFWMD PROCUREMENT APPROVED

BY: _____

DATE: _____

**MIAMI-DADE COUNTY, a political subdivision of the State
of Florida**

By: _____

Title: _____

APPROVED AS TO LEGAL FORM AND LEGAL
SUFFICIENCY

BY: _____

DATE: _____

Insert Exhibit A-3

(Map Includes similar table)

SFWMD Tract ID	Folio	Dept. per Property Appraiser
GZ300-006	3660110000010	EEL
GZ300-012	3660100000081	EEL
GZ300-012	3660150000070	EEL
GZ300-104	3660090220050	PROS (Lakes by the Bay Park)
TA500-033	3060220000020	PROS (Black Point Park & Marina)
TA500-130	3060220000010	WASD
TA500-090	3060220000021	PROS (Black Point Park & Marina)
TA500-091	3060270000010	PROS (Black Point Park & Marina)

Insert Exhibit C (Certification of Lands)

Insert Exhibits D-1 through D-4

**ITEM 7: Consider City of Port Orange Request
For Land Exchange, Town Center Marcantonio
Property, FCT# 02-094-FF2**

Rita Ventry

REQUEST: The City of Port Orange has requested a land exchange under Rule 62-818.016, Florida Administrative Code (F.A.C.), for the Marcantonio Property (02-094-FF2). The proposed land exchange would replace the existing Marcantonio Property of .73 acres with the proposed exchange property which is contiguous with the remaining Town Center/Hoffmeister and Wilson Properties (01-129-FF1). The requirements included in the Grant Award Agreement for the Marcantonio Property would be transferred to the exchange parcel based on the revised application submitted by the City of Port Orange.

PROJECT BACKGROUND: In 2003, the City of Port Orange received funding in the amount of \$123,387.75 with a City match of \$172,887.75 to purchase 2 parcels (Hoffmeister and Wilson Properties) totaling approximately 1 acre with a grant from the Florida Communities Trust (01-129-FF1). In 2004, a second FCT grant (02-094-FF2) in the amount of \$133,217.00 was awarded for the City to purchase a .73-acre parcel (Marcantonio Property). The City provided a match of \$133,217.00 for the Marcantonio Property. These 3 parcels make up the FCT project called the Town Center.

In July 2021, the City of Port Orange contacted FCT staff regarding a potential land exchange to release the Marcantonio Property (02-094-FF2) from the FCT restrictions and to place the FCT restrictions on a city owned park known as Riverwalk Park. This proposed exchange property is north of the Marcantonio Property, within the Port Orange Town Center Community Redevelopment Area. This request is being made by the city due to the development of public recreational open space along the Halifax River that was achieved with the completion of the Riverwalk Park. The city is required to develop on the Marcantonio Property two or more user-based outdoor recreational facilities, including a playground and bocce ball court, interpretive signage, and pedestrian and bicycle access. The Project Site shall be developed and managed as a destination point along the Port Orange Pathway (POP) multi-use recreational trail system. Also, at least 24 environmental or historical education classes or programs shall be conducted annually on site too.

The Riverwalk Park property provides premier waterfront public recreational open space that exceeds the Marcantonio Property grant obligations in that the amount of public open space and recreational and educational opportunities provided with the Riverwalk Park property are much greater than what could be developed on the Marcantonio property. The Riverwalk Park property is already developed as a public park and includes the property known as "Hoffmeister/Wilson Property" that is subject to the FCT Grant Award Agreement. The Riverwalk Park is contiguous to the remaining Town Center FCT Project and this would ensure that the Riverwalk Park property will be developed and maintained in accordance with the FCT Grant Award Agreement and continue to further the intended redevelopment goals of the Town Center Redevelopment Area by increasing the recreational and educational opportunities for the citizens and visitors of the City.

The city is requesting a land exchange to swap the approved Marcantonio property site (.73 acres) for the alternative proposed project site, the Riverwalk Park (8.075 acres) which is contiguous to the remaining Town Center FCT Project.

The recipient submitted, and FCT approved, the required materials per Rule 62-818.016 (1)., F.A.C., as follows:

(1)(a): The City submitted maps verifying the exchange parcel would be contiguous to the remaining FCT Town Center site.

(1)(b): The City verified the proposed exchange site is greater than the original site in terms of acreage. Marcantonio (FCT Site) .73 acres and the Exchange site is 8.075 acres.

(1)(c): The appraisals provided by the City indicate that the appraised value of the proposed exchange Riverwalk site is greater in value than the Marcantonio site.

(1)(d): The City has provided an assessment of the environmental, conservation, and recreation benefits of the proposed exchange site should the FCT conditions be transferred to the site. Initial review indicated that the proposed exchange parcel would provide a much larger area for public recreation.

(1)(e): The City provided a revised FCT application. After review by FCT staff the resulting score for the proposed exchange parcel is 150 points (without any Project Excellence points). This score is higher than the 135 points by the original Marcantonio site.

The City also submitted documents responsive to Rule 62-818.016(2), F.A.C. for review. Staff review of these items is summarized below:

(2)(a): The City Commission reviewed the land exchange proposal and voted unanimously on October 19, 2021 to move forward with the land exchange.

(2)(b): The City has provided a draft management plan for the proposed exchange site. The management plan generally fulfills the requirements for the FCT management plan, and staff will work with the County to finalize the plan if the project moves forward.

(2)(c): The City has provided general information about the natural communities and cultural features found on the site.

(2)(d): The City has provided a survey for the proposed exchange parcel.

(2)(e): The City provided title work and a title policy for the exchange parcel.

(2)(f): The City submitted one appraisal for each project site (Marcantonio Parcel and Riverwalk Park) produced by T. James Cooksey, MAI, CCIM. The appraised value for the Marcantonio Parcel \$350,000. The appraised value of the proposed exchange site (Riverwalk Park) is \$2,825,000 (effective date September 23, 2021). Due to the value

being over \$1,000,000 a second appraisal was completed by Ronald S. Crouse, ASA, CRA, IFAS. The appraised value for the Marcantonio Parcel \$380,000. The appraised value of the proposed exchange site (Riverwalk Park) is \$2,814,000 (Report date November 30, 2021).

Division of State Lands (DSL) appraisal staff reviewed the appraisals and found them to be in full compliance with *Uniform Standards of Professional Appraisal Practice* (USPAP) and the *Uniform Appraisal Standards for Federal Land Acquisitions* (UASFLA) and acceptable for use by the FCT for its purposes.

(2)(g): The City provided a Phase I Environmental Site Assessment (ESA) (dated October 22, 2021) of the proposed exchange site. Division of State Lands (DSL) Office of Environmental Services has reviewed the Phase I ESA. The Phase I ESA identified no evidence of recognized environmental conditions (RECs) associated with the subject property.

FCT staff reviewed all required documentation and the City has met all the requirements in Rule 62-818.016(1), F.A.C., Consideration of Recipient's Request for Land Exchanges. The City is proposing for the exchange:

Parcel Acreage	Property	Appraised Value
.73	Marcantonio (FCT Site)	\$350,000
8.075	Proposed Exchange Parcel	\$2,825,000

STAFF RECOMMENDATION: Staff recommends approval of Land Exchange.

FCT GOVERNING BOARD ACTION: MOTION AND VOTE

- APPROVE**
- APPROVE WITH MODIFICATIONS:**
- DEFER**
- WITHDRAW**
- NOT APPROVE**
- OTHER:**

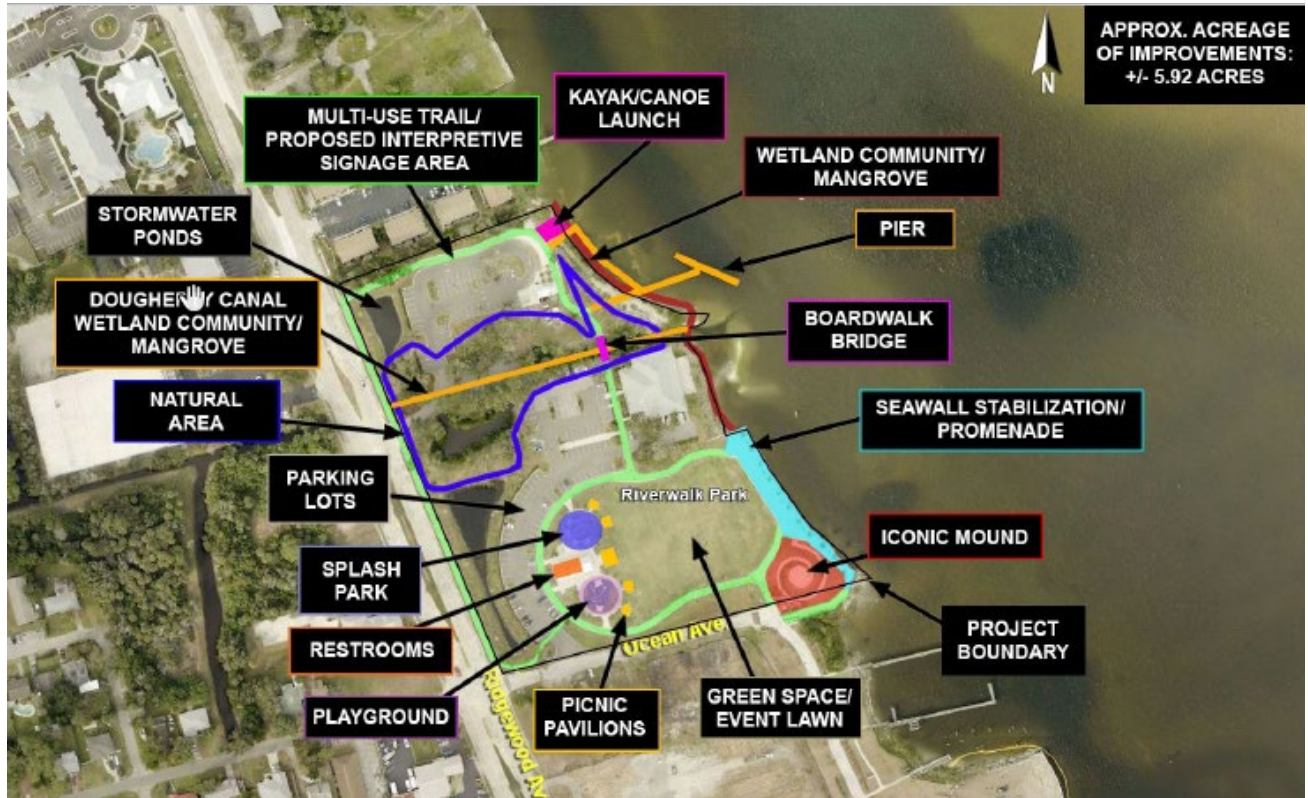
Motion by:

Second by:



Master Site Plan
Exchange Parcel (New 02-094-FF2)

and
Adjacent FCT Hoffmeister/Wilson Parcel (01-129-FF1)



ITEM 8: Public Comment

Chair Gambineri

ADJOURNMENT

FCT GOVERNING BOARD ACTION: MOTION AND VOTE

- APPROVE**
- APPROVE WITH MODIFICATIONS:**
- WITHDRAW**
- NOT APPROVE**
- OTHER:**

Motion by:

Second by:

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