**Environmentally Endangered Lands Program  
Selection and Management Committee-Meeting**

**July 17, 2019 Minutes**

**Approved January 29, 2020**

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# Environmentally Endangered Lands Program Selection and Management Committee Meeting

**July 17, 2019**

**Approved January 29, 2020**

## *Attendance*

### SELECTION AND MANAGEMENT COMMITTEE

* Tamy Dabu
* Tammy Foster
* Oli Johnson
* Paul Schmalzer
* Kim Zarillo

### EEL PROGRAM STAFF

* Laura Clark
* Evan Hall
* Damien Keene
* Mike Knight
* Steve McGuffey
* Chris O’Hara

### GUESTS

* Monty Montgomery, Citizen

*Protecting and Preserving Biological Diversity*

*Through Responsible Stewardship of Brevard County’s Natural Resources*

## *Meeting Minutes*

### CALL TO ORDER AND ROLL CALL

Oli Johnson, Chairman, called the meeting to order at 1:05 PM.

Dave Breininger provided advance notice he would not be able to attend due to work requirements. Liz Becker provided advance notice she would not be able to attend for personal reasons.

### PUBLIC COMMENT

None.

### MINUTES

It was noted that the March 6, 2019 Selection and Management Committee (SMC) draft minutes are incomplete. The May 29, 2019 and June 13, 2019 SMC minutes and the June 13, 2019 Selection and Management Committee/Procedures/Recreation and Education Advisory Committee (SMC/PC/REAC) minutes were reviewed.

**May 29, 2019 SMC Minutes**

The May 29, 2019 SMC minutes, which includes two attachments, were presented for approval.

MOTION ONE

**Paul Schmalzer moved to approve the May 29, 2019 SMC minutes as presented.**

**Tamy Dabu seconded the motion.**

**The motion carried unanimously.**

**Additional Discussion**

Paul Schmalzer requested clarification of the meaning of the word “boot” as in “the State doesn’t pay boot” related to discussion on the Pinkerton property exchange. Mike explained his understanding that if the dollar value of the land which is received by the property owner is higher than the value of the land received by the State, the property owner will be required to pay that difference to the State.

**June 13, 2019 SMC Minutes**

The June 13, 2019 SMC minutes were presented for approval.

Paul Schmalzer noted that on page 4 in the section on the Land Management Report, the word *Lygodium* should be italicized.

MOTION TWO

**Paul Schmalzer moved to approve the June 13, 2019 SMC minutes, as corrected.**

**Tamy Dabu seconded the motion.**

**The motion carried unanimously.**

**June 13, 2019 Selection and Management Committee/Procedures Committee/Recreation**

The June 13, 2019 SMC/PC/REAC minutes were presented for approval.

Paul Schmalzer noted his feeling that the wording on the top of page 6 regarding SMC responsibilities was a bit confusing and he offered the following revised language for consideration: “… and subsequent revisions, and works with PC in review and approval of any future revisions.” The group voiced their concurrence with the new language.

MOTION THREE

**Paul Schmalzer moved to approve the June 13, 2019 SMC/PC/REAC minutes, as amended.**

**Kim Zarillo seconded the motion.**

**The motion carried unanimously.**

### **ADMINISTRATIVE REVIEW**

The Administrative Review was discussed.

**Florida Inland Navigation District (FIND) Property Exchange**

Mike noted that when staff submitted the FIND agreement to the County Attorney’s Office to ensure everything was ready to go, it was determined that a clause existed that terminated the agreement if the exchange hadn’t closed within a year from the time the agreement was approved. He also noted that FIND has requested an additional revision related to the timing of the closing and disbursement of mitigation funds to The Nature Conservancy. An agenda report to re-advertise the property exchange is pending County Attorney’s Office review of the revised agreement and once that review is complete, the Agenda Report will move forward to the Board of County Commissioners to re-advertise the exchange with a second Agenda Report to approve the revised agreement.

**Request to State for Land Exchange Strategy Details**

Mike explained that the communication from the State, which was received the previous day, did not provide any additional clarification regarding what the State’s criteria would be regarding consideration of small parcel property exchanges within the mega-parcel areas. The communication states:

We reiterate as we conveyed previously that our goal in this project area would be to acquire and close the gaps between parcels versus exchanging parcels already acquired for the same reasons and so conducting exchanges for this project doesn’t match up to that strategy.

We have many projects already allocated towards current funding and we will continually evaluate our acquisition strategy for this and other acquisition project areas moving forward as other funding is obtained. The difference in values of parcels in exchanges are definitely a part of normal consideration and typically paid for by the applicant, as the State doesn’t pay boot for those differences. Current project funding is allocated to the many other projects we have in process at this time. However, there are underlying criteria that could prevent those exchanges from being approved such as the funding used to acquire the state’s parcels, recommendation and approval from the Acquisition and Restoration Council (ARC) and ultimately the approval by the Governor and Cabinet.

We would be open to discuss strategies for the project and possibly the potential for exchanges with you if there was a plan that truly accomplished better management of the project area that we could review. I am not sure that plan currently exists past the couple of smaller parcel exchanges that have already been presented that don’t seem to accomplish better management of the project. I am still not sure that, based on reasons mentioned above, that we could get those approved. These are thoughts that we can continue to have dialogue on and possibly find potential solutions in the future.

Kim suggested consideration of moving up the chain of command until a workable solution is received. Discussion ensued regarding appropriate wording of a motion.

MOTION FOUR

**Kim Zarillo made a motion to request that Environmentally Endangered Lands (EEL) Program staff contact management level State employees at higher level than the Senior Management Analyst Supervisor with whom they have been communicating to request clarification on the policy and potential for developing a policy for consolidating parcels within the mega-parcel and other areas.**

**Paul Schmalzer seconded the motion.**

**The motion carried unanimously.**

**Additional Discussion**

Clarification was requested regarding the current membership of the Acquisition and Restoration Council in Tallahassee. Staff will provide the information. Mike also noted that he has reached out to other conservation groups to see if they had any additional information, but no one else has developed this type of strategy so far.

**Board of County Commissioner (BOCC) Items**

* The cooperative agreement with Town of Malabar is due for renewal.
* The agreement with the Florida Native Plant Society at the Enchanted Forest Sanctuary is due for renewal. It is anticipated that the County Manager will sign this agreement instead of it being submitted to the Board of County Commissioners.
* The Florida Forest Service Timber Agreement is being revised to reflect new cost sharing requirements. It is anticipated this item will be submitted to the Board of County Commissioners for consideration on July 23, 2019.

**Bats**

Mike noted that acoustical monitoring for bats will be ongoing at Coconut Point, Jordan Scrub, and Scottsmoor Flatwoods sanctuaries as part of a larger study. EEL staff have been trained to put out and collect the monitors on a weekly basis. Researchers will be reviewing information related to types of bats rather than numbers of bats at this time

**Action Items**

**10/5/2018 Timber removal north border of Micco Scrub Sanctuary**  
Most trees are down and in 30 to 50 piles. A few trees remain on ditch bank that require excavator.

### COMMITTEE MEMBER REPORTS

None.

### STAFF REPORTS

None.

### LAND ACQUISITION STATUS UPDATE

A possible mitigation donation for work being done in Palm Bay is still pending.

The Information Technology Department is working with Jenny Warner to make revisions to shape files which will be used in determining which acquired properties need to be included in the Comp Plan amendment related to Future Land Use, and what additional properties should be added to the list for consideration of acquisition. Mike noted it is hoped that only about 198 acres needed to be added to the list for amendments to the State Management Lease Agreement.

### AGENDA ITEMS

**Habitat Conditions Report**

Mike noted that the new structure being planned for the Habitat Conditions Report will be based on fire units which are colored to represent different conditions rather than the table which was being used previously. It is anticipated that a map of each sanctuary will be updated on an annual basis. Paul stated he felt that this type of documentation will be helpful for management planning and that because without some written documentation, when staff leaves their knowledge leaves with them. Kim noted the information being discussed related to restoration and emphasized the importance of having baseline information along with information on condition, hydrology, and existing native species. She suggested consideration of using patterns along with color variations and establishing a baseline. Tamy noted when you have a baseline, you can compare to current conditions and know how far you have come.

Staff will continue to develop the maps and bring the first iteration back for review.

**EEL Program Advisory Committee Structure**

Mike stated that during the June 13, 2019 Selection and Management Committee, Procedures Committee, and Recreation and Education Advisory Committee (SMC/PC/REAC) meeting, the group requested additional information regarding District 3 Commissioner Tobia’s proposal to consolidate the Environmentally Endangered Lands (EEL) Program’s three Citizen Advisory Committees into one committee. He noted that he has researched the inquiries regarding subcommittees through the County Attorney’s Office and would be reviewing responses.

Paul stated his understanding that this item has not yet been addressed by the Board of County Commissioners. Mike agreed and noted his understanding that the item will be reviewed by the Board of County Commissioners in the near future.

Mike provided a presentation of the responses to the committee member questions from the June 13, 2019 meeting:

**EEL Advisory Committee Structure Questions**

**From June 13 Joint EEL Advisory Committee Meeting**

**How would having subcommittee meetings reduce the cost of Advisory Board meetings?**

It would not reduce costs. It is staff’s understanding that cost is not the primary concern. The concern relates more to commissioner workload in appointing large numbers of people to committees.

**Would staff need to attend subcommittee meetings?**

Yes.

**Would subcommittees be made up of members of the original committee, or members of an outside group?**

Could be either, but staff understands this would be up to the SMC.

Structure could take form of Tourism Development Council (TDC), which has one primary committee (Board of Directors) that is appointed by BOCC and each member of Board of Directors has one appointment on each of the 5 other TDC Committees.

**Would subcommittee meetings be considered public meetings?**

Yes, unless they do not have more than one member from the SMC as member and are only tasked with gathering information and bringing it back to the SMC for action. No voting responsibilities of subcommittee.

**What Sunshine Law issues would need to be considered?**

All Sunshine Laws would apply unless the subcommittee has only one Selection and Management Committee (SMC) member and they only gather information for the SMC to take action on.

**The Procedures Committee (PC) currently makes recommendations directly to the Board of County Commissioners (BOCC). How would that be accomplished under subcommittee structure?**

PC would report directly to Selection and Management Committee (SMC) and not the BOCC.

**The PC is currently involved in review of qualifications of applicants applying to the SMC. How would that be accomplished if everything was moved under one committee?**

One option would be for the SMC Chairman or their Designee to sit on the Qualifying Committee with the EEL Program Manager and the Director to Human Resources. The Qualifying Committee would provide the list of “qualified” applicants directly to the BOCC.

**Could subcommittees resolve commissioner issues while maintaining the current roles, responsibilities, levels of expertise and authority existing in current EEL Program Advisory Committees?**

Question needs more clarification.

Discussion ensued. The following was noted:

* If the primary concern related to this action is in response to the workload Commissioners have making appointments to committees, why did they, last year, not reappoint people who reapplied to continue to serve on the Selection and Management Committee?
* Clarification was provided that a subcommittee can vote on items, but their recommendations move forward to the primary committee, not the BOCC.
* At the current time, recommendations from the Procedures Committee move forward directly to the BOCC. Recommendations from the Recreation and Education Advisory Committee move to the Selection and Management Committee.
* If the Procedures Committee and Recreation and Education Advisory Committee become subcommittees of the Selection and Management Committee, appointments to the two committees would be made by the Selection and Management Committee, not the BOCC.
* The possibility of a member of each subcommittee becoming a member of the Selection and Management Committee has been discussed.
* Criteria for membership on the Procedures Committee and Recreation and Education Advisory Committee could be revised through amendments to the Land Acquisition Manual and Sanctuary Management Manual by the Selection and Management and Procedures Committees, but the amendments would need final approval from the BOCC. Revisions of the manuals has generally proven to be a lengthy process. It was also noted that these documents are not yet in a Section 508 compliant format.
* If the Board of County Commissioners (BOCC) mandates the changes which are being considered, it will add to the workloads for staff and the Selection and Management Committee (SMC).
* The Procedures Committee (PC) was originally developed to safeguard the procedures that the Program operates by and to make funding recommendations to the BOCC. There are concerns with possible revision to these long-established guidelines.
* The BOCC recently waived the established procedures when they revised the criteria for SMC membership. There are concerns with the possibility of future BOCC actions that could weaken the apolitical structure of the Program which was part of the Program guidelines during the 1990 and 2004 referenda.
* Term limits for Citizen Advisory Committee members is also being discussed by the BOCC.
* Vince Lamb, Procedures Committee member, is meeting with commissioners related to the SMC/PC/REAC motions of June 13, 2019. Mike confirmed he has requested that Vince relay to each commissioner that staff are willing to assist in maintaining a listing of potential committee members for when openings on the committees occur.
* It was noted that if the commissioners wanted only to reduce their workload, they could just double the length of everyone’s terms and cut their workload in half.
* Staff will relay information on responses to the June 13, 2019 questions to the PC and REAC.
* It was noted that during the current meeting, the SMC indicated there has been no change to the recommendations from the June 13, 2019 meeting.

Lake Oak Estates Property

A willing seller application has been received on a 91-acre property near the intersection of Interstate 95 and Aurantia Road in Mims. The land is adjacent to the Rail Trail. Mike stated his

understanding that the property includes flatwoods and marshes, but not scrub. The property was reviewed during the most recent potential scrub stepping stone review, but was not added to the proposed acquisition list. Mike noted the political climate for taking an acquisition to the BOCC is not good at this time and that he believes that at some level, there is an expectation that although the land acquisition review rules for the Environmentally Endangered Lands Program have not changed, the Program would not move an acquisition to the BOCC. Mike noted three options: 1) SMC site visit for evaluation, 2) Approval of 1st Majority Vote, 3) Decline. Paul suggested consideration of a site visit. Tammy Foster requested clarification of the availability of land acquisition funding. Mike noted that there is approximately $1 million in the capital bond funds account, but he felt the perspective over his head would be “Why would you use that money when it could potentially be used like the other money was, for capital maintenance later on?” Mike noted his feeling that once the Florida Inland Navigation District (FIND) land exchange in the Valkaria area is complete, it would be a good time to discuss acquisition priorities. Paul noted the importance of completing the FIND exchange, and added he was not in favor of using the $1 million for capital operations expenses, when there are other ways to fund operations, but no other way to fund land acquisition - especially since the Program has been systematically underfunded since 2006. He stated that this may not be the place to spend limited funds, but since the land does appear to have some value for conservation, he supported the site visit in order to be fair to the landowner who had submitted the willing seller application. A site visit will be scheduled for August 3, 2019.

Atala Butterfly Request

Mike explained that staff has received a citizen request to consider relocating some Atala butterfly larvae, from their home in Melbourne, to the Sams House Management and Education Center in Merritt Island and staff is seeking preliminary input from the SMC prior to suggesting the citizen complete a Species Translocation Application. It was noted that although there is a small population of planted coonties at the Sams House, this plant is not known to be native to this general area. The coontie is the host plant for the Atala butterfly and their larvae are voracious eaters. It was also noted that this butterfly’s historic native range is primarily south Florida. It was determined that the SMC was not supportive of this translocation. Staff will relay the information to the citizen.

Living Shorelines and EEL Managed Lands

Mike noted he recently recalculated EEL Program shoreline along Indian River Lagoon, major tributaries and within the Saint Johns River Water Management District water shed and the approximate total is 62.38 miles. Tammy noted the additional conservation benefit of avoided input to the lagoon. Monty Montgomery, citizen, expressed his support for documentation of this type of information and offered his help if he could be of any assistance.

### LAND MANAGEMENT REPORT

**North Region: Scottsmoor West:** Firelines complete, working on fences. No burns yet, flooding of firelines has been an issue.

**North Region:** Public Access Plan public meetings previously scheduled for July will need to be delayed as a three-week advance notice to Manager and Administrative Secretary is now in effect. The Management Plan Approval Process has recently been revised and will be distributed.

**Central Region, Pine Island Conservation Area:**  The Management Plan overview to the SMC is being delayed from this month, to next month.

**South Region Management Plans:** Dates for steps in multiple Management Plan Approval Processes continue to be months past due.

**South Beach Region:** No information in this section as staff was not available to prepare the report. It was noted their public meetings which were scheduled for July will not take place until a later date.

Mike noted staff is working hard to get up to speed with Section 508 guidelines.

### PUBLIC COMMENT

Monty Montgomery expressed his support for the work being done by the Environmentally Endangered Lands Program and offered his help with any project where he might be able to provide any assistance.

### NEXT MEETING

It is anticipated that the next meeting will be scheduled for August 23, 2019.

### ADJOURNED

The meeting was adjourned at 4:05 PM.

### SUMMARY OF MEETING MOTIONS

1. Motion to approve the May 29, 2019 Selection and Management Committee minutes, including attachments, as presented.
2. Motion to approve the June 13, 2019 Selection and Management Committee minutes, as corrected.
3. Motion to approve the June 13, 2019 Selection and Management Committee/Procedures Committee/Recreation and Education Advisory Committee minutes, as amended.
4. Motion to request that Environmentally Endangered Lands Program staff contact management level State employees at a higher level than the Senior Management Analyst Supervisor with whom they have been communicating to request clarification on the policy and potential for developing a policy for consolidating parcels within the mega-parcel and other areas.

### ACTION ITEMS

1. Staff to contact State staff employees regarding potential for developing a policy for consolidating parcels within the mega-parcel and other areas.
2. Staff to relay responses to subcommittee questions to the Procedures Committee and Recreation and Education Advisory Committee.
3. Staff to relay Selection and Management Committee input regarding possible translocation of Atala butterfly larvae to the Sams House grounds.
4. Staff to distribute the revised Management Plan Approval process to the Selection and Management Committee.
5. Staff to continue to develop Habitat Conditions maps and bring back to the committee.