# Environmentally Endangered Lands ProgramSelection and Management Committee Meeting

## December 17, 2021 Meeting Minutes

## Attendance

### SELECTION AND MANAGEMENT (SMC) MEMBERS

Tamy Dabu, Doug Sphar (Recreation and Education Advisory Committee) (REAC), Mac McLouth (Tourism Development Council), Jim Burney, Dr. Mark Bush, Lisa Toland, and Kim Zarillo attended in-person. Oli Johnson attended via Zoom.

### SELECTION AND MANAGEMENT (SMC) EMERITUS MEMBERS (NON-VOTING)

Dr. Schmalzer, Dr. Hinkle, Dr. Breininger, and Dr. Foster attended via Zoom.

### ENVIRONMENTALLY ENDANGERED LANDS (EEL) PROGRAM STAFF

Mike Knight and Steve McGuffey attended in-person. Jenny Warner, Brad Manley, Damien Keene, David DeMeyer, Evan Hall, Nicholas Eder, Ron Chicone, and Amy Rivera attended via Zoom.

### GUESTS

Murray Hann (REAC), Ray Vaninetti, Janet Metz, Drew Thompson, Sherry Dunn, Mike Keen, Bo Platt, Vince Lamb, and David Montgomery (Procedures Committee) attended in-person. Call-in (321) 727-7764, Daniel Waite, Fisher, John White, Laurilee Thompson, Lisa Morrell, Richard Kohler, Tom User, Craig Wallace, Rorie, and Rick Follett (REAC) and Procedures Committee (PC).

Protecting and Preserving Biological Diversity
Through Responsible Stewardship of Brevard County’s Natural Resources

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## Meeting Minutes

### CALL TO ORDER AND ROLL CALL

Tamy Dabu called the meeting to order at 9:33 a.m.

### PUBLIC COMMENT

Tamy asked if there was any public comment regarding transferring Malabar Scrub Management Authority to the Town of Malabar.

## MINUTES

The SMC November 19, 2021 meeting minutes were presented for approval.

### MOTION 1

**Mac McLouth moved to approve the SMC November 19, 2021 minutes as presented.**

**Doug Sphar seconded the motion.**

**Motion carried unanimously.**

### COMMITTEE MEMBER REPORTS

Doug Sphar mentioned the Director of Planning for the City of Titusville (City) stated the City was approached to take over management of Colonial Crossing. Doug added the City declined this offer. Mike Knight asked if this was recent. Doug replied, yes. Doug stated there was not a REAC meeting. Tamy Dabu acknowledged Doug’s comment.

Lisa Toland wished Mac McLouth a happy birthday and provided an update on the meeting with the Parks Director. Lisa stated this frank, open exchange lasted approximately 75 minutes. From this meeting, Lisa believes upper management is reading the Board well and are trying to support the Committee as staff and advising the Board which is management’s primary responsibility. Lisa referenced the City of Titusville and her perception that the Board of County Commissioners (Board) wants to return properties to cities that are in their jurisdiction that are held by Brevard County Parks. She stated this was reflected in Commissioner Tobia’s motion to return Malabar Scrub Sanctuary to the Town of Malabar. Lisa stated she is satisfied with the answers she received and invited Mary Ellen Donner to attend SMC meetings to further communication. Lisa noted she would like the SMC to discuss approaching the City of Titusville at a later date regarding their interest in the property in Titusville.

### AGENDA ITEM 1

**Malabar Scrub Management Authority Transfer to the Town of Malabar**

Mike provided an overview of this proposed transfer and explained the opportunities for public comment. He mentioned attending the Town of Malabar Council Meeting and the working relationship with the Town of Malabar with this matter. Tamy Dabu thanked those who attended this meeting and asked for public comment on this agenda item.

### PUBLIC COMMENT

Sherry Dunnstated she was at that meeting and after that meeting she spoke with the Town of Malabar. She added most of the Town of Malabar Board are against clearing the land because of what occurred at Jordan. She stated the trail was hacked up, she cannot locate the trail markers, and added it looks like a plowed field. She went to the Town of Malabar to inquire what was happening to the trails. Mike mentioned this agenda item is regarding the transfer to the Town of Malabar. Sherry stated she is just frustrated and she questions whether the Town of Malabar is supportive of this project. Mike stated the Town of Malabar is supportive of working through this issue. Mike stated he understands her frustration and restated there will be an opportunity for public comment during that agenda item. Mike thanked Sherry.

Murray Hann stated it is going to be hard for the Selection and Management Committee (SMC) to provide input to the Town of Malabar regarding management of this property because there are so many unknowns. Mike thanked Murray.

Drew Thompson added to Murray’s concern of transferring the Malabar Scrub Sanctuary (MSS) to the Town of Malabar. He would like to see a commitment from the SMC and the EEL Program to participate in a workshop to provide scientific input as part of the transfer.

Doug Sphar mentioned a management transfer that occurred in 2016 which resulted in unexpected management requirements for the new owner. He added Florida Statute 259 states the property must be managed for the primary purpose.

Jim Burney asked which two other Commissioners voted on this. Mike responded Commissioner Pritchett and Commissioner Lober.

Lisa Toland asked if there is a summary of annual management costs and the legal requirement for MSS. Mike responded we can provide the estimate provided to the Commissioners.

Lisa inquired if the SMC’s role is to provide input on what is needed in terms of management. Mac mentioned he is a passionate biker and stated this is a question of the highest and best use of the land. He added if we want to save the Florida Scrub-jay, the trees will have to be cut.

Doug Sphar commented this is an ethical issue because the Brevard County voters voted for the conservation of land and the Program partnered with the State agreeing to manage this land per this agreement.

Jim Burney asked if there is a precedent of EEL transferring management to municipalities. Mike replied, no. He added there are some properties where the County (EEL Program) contributed a small amount toward acquisition such as Buck Lake Conservation Area.

Jim added his opposition as a Brevard County resident to have County lands transferred to a municipality.

Dr. Paul Schmalzer stated the SMC must consider these lands were purchased with funds from the 1990 and 2004 referenda for all Brevard County residents and for conservation purposes. There are management requirements through the lease to the State including a fifty percent reimbursement of the purchase price. He added the Town of Malabar did not purchase this land and it is inappropriate for MSS to be turned over to the Town of Malabar for management. He stated the SMC should oppose this.

Tamy Dabu added she concurs with Paul’s position. Tamy mentioned this site has been used for other mitigation projects that have Scrub-jay impacts. This is a donor site which has permits from multiple agencies to translocate jays. She added this transfer is an ethical problem which will open a can of worms.

Lisa added she agrees with what Tamy said and is opposed to this transfer as well. Lisa suggested writing a letter to the Commission stating the SMC opposes this transfer for these specific reasons such as: this being a key parcel for the survival of the Florida Scrub-jay; our commitment to doing what the voters wanted; and what is in the Land Acquisition Manual. Lisa stated further if the transfer goes through, she recommends the SMC provide a list of requirements to the Board to remain in compliance with the referendum. The list should include: an approved management plan including interfacing with other agencies, a dedicated funding source, staff with scientific background, and scrub management as a whole.

Kim mentioned the calculated ongoing maintenance costs and inquired what percentage of that is for the asphalt trail. Mike responded essentially zero for the Program, because we agreed to maintain it as a fire line. Kim noted her concern that the Program may be asked to maintain the asphalt trail. Kim asked what zoning the MSS is under. Her concern this is a step to allow transfer and future development on this land. Steve McGuffey responded the Town of Malabar designated this land as conservation land as well as some other surrounding land. Kim stated her opposition to this transfer and supports the SMC sending a letter to the Commission.

Vince Lamb added work is underway for a referendum to extend the EEL Program for the next 20 years. He mentioned transferring lands to municipalities may be harmful to the upcoming referendum.

Sherry Dunn noted people’s obsession with the Florida Scrub-jays and stated she appreciates seeing them while riding the trails. Her concern is what will happen to other species during a controlled burn. Lisa Toland stated we need to stay on track with the transfer discussion and it sounds like there needs to be more education on the benefits of fire to all species.

Monty Montgomery asked if management is being delayed. Mike responded the project is on hold per direction of the County Manager’s Office. Monty expressed concerned about this delay.

Murray Hann commented the paved trail is a contentious subject because the EEL Program did not complete the deal in 2006 when the Town of Malabar transferred 14.25 acres to the Program in trade for a right of way on the eastern boundary for a bike path. Murray mentioned the lack of communication with this user group and scope of work for the REAC Advisory Board. He added the paved trail is a nice resource. Mike clarified the South Area Parks were originally intended to maintain this trail; however, due to staffing changes this was not formalized and stated he shares this concern.

Oli Johnson commented he is against transferring MSS to the Town of Malabar. He added the Palm Bay Parks Department is great for managing parks but they are not equipped to manage endangered lands.

### MOTION 2

**Lisa Toland moved to have staff prepare a draft letter to the Board outlining the SMC’s opposition to the transfer of EEL land to the Town of Malabar. This letter should include specific reasons including to fulfil the requirements of the referendum and access to all Brevard County residents and not to use referendum dollars for the benefit of one governmental entity. Lisa added this letter is for the Chair’s signature.**

**Mac McLouth seconded the motion.**

**Motion carried unanimously.**

Mac commented this must be completed in a timely manner. Mike clarified the SMC cannot engage outside of public meetings. Staff will draft the letter and distribute it. Committee members can send their feedback to staff before this letter is presented to the Board. Doug stated this letter should go out before the next Board meeting. Mike replied that is the intent; however, we are not sure when that meeting will be held.

Lisa Toland made a motion to have a second letter go out if the Board decides to move forward with the transfer. As part of the evaluation process a demonstration by the Town of Malabar that they have full capability of performing the work and specific criteria to ensure that the public is represented past the referendum that any transfer to the Town of Malabar would not occur prior to the approval of a management plan approved from ARC, the State, as well as input from the SMC, including proper conservation zoning, a dedicated funding source, a demonstration of expertise to conduct the work, a demonstration to manage existing lands as they committed, and the implications for HCP permit compliance for the utilization of the land.

The Committee discussed this motion and decided to have one letter which includes a list of concerns and estimated management costs.

### AGENDA ITEM 2

**Malabar Scrub Restoration Project**

Mike Knight provided an update on the Malabar Scrub Restoration Project. This presentation is available upon request.

Dr. Schmalzer stated the management of Malabar and Jordan is very important for the Florida Scrub-jay population. He added the prescribed burning and management needed can look extreme; however, fires in scrub are intense and the pre-treatment of fuels is often needed to reduce that intensity to manageable levels. The biota of scrub and flatwoods are adapted to and dependent on fire and the whole suite of scrub species depend on this habitat not just the Florida Scrub-jay.

Kim Zarillo asked about the authority of the Board of Forestry Service to burn on public and private lands to protect property, resources, and reduce fire load. She added they often make wide fire breaks without asking permission. Mike replied they do have the authority under the Hawkins Bill. Lisa added this authority is related to public safety. Mike agreed.

Lisa commented regarding land clearing. She stated there is generally an exception for land management activities since it is not land development. She added there is almost always clearance from the Federal level down for the treatment of exotics without any permits. She stated there are numerous County codes, and she recommends identifying codes that make it easier going forward.

Lisa stated she has another concern. She asked, is what is being done right from the Florida Scrub-jay perspective. She stated from the Committee perspective it is probably unanimous this land management is needed for the Florida Scrub-jay population. The secondary issue is users of the property and whether there was adequate input in that process. Lisa asked Mike to outline the series of public meetings and if REAC should have been involved in this process. Mike responded, the sole purpose of REAC is to approve public use plans. Lisa added since the project is on hold, we can use this time to conduct an education process and gather proposals from user groups to present to the SMC. Mike provided the current meeting schedule for public input as follows: Town of Malabar held on December 6, webinar held on December 9th, responses to public concerns received are posted online, this SMC meeting, and the Town of Malabar Council Meeting to be held on January 3rd. This information will be compiled and presented to the Board. He stated if this Committee would like us to do something additional or different we can do that.

### PUBLIC COMMENT

Murray Hann stated this has been characterized as the survival of a species versus a few mountain bikers who want shade; but, that is not what this is. Murray referenced a picture of a beautiful scrub oak hammock and Mike’s comment “it was a mistake to leave specific trees” as a green corridor in the agreement made five or six years ago. Murray stated this was a major restoration resulting in from 14 to 17 30-foot piles of trees to be burned. He added, the Program realized almost immediately this was not the desired effect and conducted roller chopping and then burned it. He stated there is not a lot of shade left in MSS. He added there is one 100 to 150-foot area of shade near the parking lot used by walkers. He mentioned another pocket of scrub oak and noted this is where he observes scrub-jays where the trail goes through. He worries the Program is making a mistake. He added the non-scientific, observational data suggests the scrub-jay population is healthy and growing at Malabar East and Malabar West. He added the jays appear to like restored, but somewhat aging habitat. He concluded with maybe this restoration shouldn’t be done at Malabar West because of this family group.

Janet Metz from Grant/Valkaria stated she is here because our Town Council and the Town Administrator are concerned about what is going on at Malabar. She stated she cannot speak for the Town, but can assure you the Town does not want to take over management. To get ahead of any issues, she asked to be informed of projects in Grant/Valkaria.

Lisa mentioned Press Releases and asked if municipalities receive additional notifications for burns. Mike replied, no. She added something to think about is to provide a list of proposed projects to be completed in the next six months to towns.

Drew Thompson commented there seems to be a big misconception by the SMC regarding the overall project and the concept of what is being discussed. He further stated everyone in the room is supportive of the scrub-jay, and he thinks the SMC is missing some of the major picture which has to do with money. He added people are asking about the money because this is a major change to MSS. He referenced a previous initiative he was involved with and noted major problems with public perception regarding where the money would go. He stated the solution was communication and an oversite committee. He mentioned the program is running out of money, and if we don’t address the money the birds won’t get squat. Drew stated we should work together to mitigate the issues with users at MSS and make sure the peripheral area remains tree lined in an attempt to retain funding.

Mike added a point of clarification. According to the Population Viability Analysis (PVA), the central population is not going to be able to survive at Cruickshank Sanctuary because of the small size.

Mike Keen lives on land next to Malabar East and stated he appreciates the acknowledgment that the communication could have been better and this is being corrected. He added he is not a mountain biker, and this is not an issue that just involves cyclists. He mentioned other users and species and stated he would hate to see this messed up because the area near his home is a red zone. He mentioned raptors are in those trees and 30 feet from those trees on his house. He questions if removing this curtain of trees will help with the raptor problem. He encouraged the Land Managers to carefully read and look at the leeway that is provided within the manuals regarding this project. He stated there are guideline documents which include many should, maybe, and might be statements. He added it is not clear if the one tree per acre is the correct number.

Vince Lamb mentioned he has been involved as a volunteer with the Brevard Zoo working with the Florida Scrub-jay for the past fourteen years. He shared a true story involving Buck Lake in Brevard County. Approximately five years ago, there were 30 to 40 Florida Scrub-jays on this property including 20 that were translocated from Palm Bay. The population has since collapsed and there are currently zero or one bird on this property. He stated the people who are most experienced in this believe it is the raptors that either decimated or caused the population to move. He understands and supports wanting to look at beautiful nature sanctuaries, the pleasure this brings to the neighbors, and better communication from the EEL Program to achieve the best possible balance.

Mike Knight added clarification on raptors and noted this is not about a quantity of raptors; rather, the detection ability of scrub-jay families to see a raptor coming. We won’t reduce the number of raptors; and scrub-jays getting picked off by raptors was always part of the process, but there were a lot more scrub-jays. Because of the population size, we cannot allow the scrub-jays to get picked off by raptors. The further those trees are away, the better chance the scrub-jay has to detect the raptor.

Kim Zarillo asked Dr. Breininger to provide input on the current management plan.

John White stated he has been a Brevard County resident for 50 years and visited many of the sanctuaries since 2003. He added a lot of this hinges on the PVA, and the consensus that the habitat needs to be improved and expanded to maintain a viable population in mainland South Brevard. What he does not see is the connectivity between the PVA and the specifics in the restoration plan. He added many of us are concerned the Program may degrade the habitats further as opposed to improving them. He added he may be wrong, but there are many of us who have that concern which is amplified when people see the current state of Jordan Scrub. He would like to see that addressed and he doesn’t see the path from cutting all of the vegetation down and doing that level of disturbance for the creation of more or less ideal habitat. In watching these presentations, he has seen inconsistencies in scrub-jay population numbers, where they are located, and how much it has changed. He further stated he is surprised there is only one solution for a problem of this magnitude with multiple variables. He believes it behooves us all to work together to come up with the right solution. He stated most of us understand these are conservation areas and when recreation begins to interfere with the preservation of the species we need to rule in favor of the preservation of the species. He thinks all of the recreational users understand that; but, what he does not understand is why a lesser priority means zero consideration which he feels like some of us are seeing.

Dr. Breininger stated based on the PVA the Adaptive Resource Management Program (ARMP) which involved lots of land managers around the State, scientists, and a dozen peer reviewed publications scrub-jays are making their last stand in Brevard County. He added we are in a triage situation and the ARMP addressed a lot of the treatments that were done at Jordan and those effects are very short term and a temporary state. He encourages people to go and look at restored areas one year or a few years after restoration. Regarding triage at Melbourne, Jordan, or Valkaria there are two of four populations that can be sustained only if the proportion of optimal habitat is greatly increased plus increased connectivity through acquisition or translocation. During the last weeks, the Brevard Zoo hosted a Recovery Group of Florida Scrub-Jay scientists and genetic practitioners who research critically endangered species across the world and in zoos. This group reevaluated the data and scenarios of delaying management on these conservation lands and determined this would greatly reduce or prevent a chance of developing a sustainable wild population. This group concluded time is running out. He noted he provided a letter to Mike specific to the Malabar Sanctuary Restoration Plan and he thinks it is the way to go in this triage situation.

Lisa asked Dr. Breininger if there is any opportunity to approach the Town of Malabar and state this is where we have some options in the process for example different tree densities in certain areas. Lisa stated we have to meet our objective; but, suggested engaging in a dialogue including allowing Malabar to manage the park and reducing tree density over time. Mike responded if this Committee feels not implementing all the criteria, guidelines, or strategies; but, our data doesn’t suggest there is an opportunity for that. Lisa responded she is not suggesting not implementing; but, she wants to hear everyone else’s suggestions to see if there are any considerations.

Tamy Dabu asked how are we going to move forward with this project. Lisa responded we cannot move forward until they let us go forward and we have to give the Board what they need to make this decision.

Dr. Breininger responded to questions posed earlier and stated we are in a very serious triage position. Can you modify this some by not taking down some trees here and there? He responded probably, but right now the interspersion of trees and tall shrubs in the landscape is too much. Can we do something to increase two families or so? Dr. Breininger responded if that is what you are trying to do, it will not work because we are in a serious triage situation. He responded to the reference to Cruickshank and stated there is supplemental feeding, bird feeders on the side of the very narrow pine forest, and not a lot of interspersion with forests or trees there. This is an example of where the scrub-jays are doing better than you would expect being that close to a forest. At Malabar, there is way too much interspersion and a local population that small is going to be very, very vulnerable to extinction and we are looking at putting some of these species in zoos soon.

Lisa mentioned there is the capacity of 13 families if Malabar manages their habitat resulting in two families and the Program manages our habitat resulting in two families. Dr. Breininger stated this entire complex has the capacity for 18 families. He noted there are four or five families there currently.

Doug asked how much oversite does the State have to make compromises within the management plan. Mike responded the State checks and conducts site visits every five years. Mike added the Program received feedback from the State the Program was catering too much to the users, compromising to much, and not managing the North side of Malabar West.

Jim Burney referenced the public webinar and noted even those who were opposed to the restoration project love the park. He believes there is an underestimation of the effects of fire suppression and feels that is an opportunity for education. He added scrub habitat is one of the least attractive habitats because its barren and hot, and it is shocking after restoration as described by some of the speakers. Jim asked for clarification on the property Malabar is responsible for managing.

Lisa responded she is interested in asking the question; since it seems the areas are segmented. She asked if Malabar funds the management of their property, does that allow an opportunity for these little areas to remain. Kim responded it is good to ask that question; but, he said no. Kim added if the Town agrees to that, there is an if/when timeline to complete this project.

Tamy suggested providing information and education on why the Program exists, how we get there, and listen to the feedback.

Mike responded what he is hearing is we need to step back and gather more information. He added eventually the SMC will need to submit a recommendation to the Board. Mike stated the SMC can state we are satisfied with the amount of public input we received or take a field trip and engage more with the Town.

Lisa feels strongly this must go through the Town. Kim asked if we can move forward with the management plan and at the same time provide outreach and gather input. Mike responded, the Program has been directed not to move forward. Mac stated essentially, we have done this and should move forward with it.

Janet Metz commented the Town of Malabar would not have been involved with this except the citizens formed a group and sent out messages encouraging persons to contact Commissioner Tobia and the Town and complain about Jordan Scrub. As long as the citizens don’t understand what’s going on, there is always going to be a fight. As a Master Naturalist she understands the issue, but believes public education is needed.

### MOTION 3

**Lisa Toland moved to direct staff to coordinate with the Town Manager and the Town of Malabar to gauge their interest in a community outreach program and/or a working group through the Town.**

**Kim Zarillo seconded the motion for discussion purposes.**

**Motion carried.**

**Mac McLouth and Oli Johnston opposed.**

### MOTION 4

**Jim Burney? moved to adjourn the meeting**

**Oli seconded the motion.**

**Motion carried unanimously.**

### ADJOURNED

Meeting adjourned at 12:34