



**ENVIRONMENTALLY ENDANGERED LANDS (EEL) PROGRAM
SELECTION & MANAGEMENT COMMITTEE (SMC)**

**March 11, 2008
Attendance List**

SELECTION & MANAGEMENT COMMITTEE MEMBERS

Dave Breininger
Ron Hight
Ross Hinkle
Randy Parkinson
Paul Schmalzer

EEL PROGRAM STAFF

Jenny Ashbury
Sandy Carnival
Laura Clark
David DeMeyer
Mike Knight
Brad Manley

THE NATURE CONSERVANCY

Rebecca Perry

GUESTS

Jim Durocher, REAC Committee member
Don Krieger, Town of Malabar
Vince Lamb, Friends of Ulumay Sanctuary
Jack Lembeck, Friends of Ulumay Sanctuary
Jeff McKnight, Malabar Town Council
Barbara Meyer, Brevard County Transp. Planning / MPO
Mary Sphar, citizen
Maureen Rupe, Partnership
Suzanne Valencia, Sierra Club

*Protecting and Preserving Biological Diversity
Through Responsible Stewardship of Brevard County's Natural Resources
March 11, 2008
Approved April 8, 2008*



**ENVIRONMENTALLY ENDANGERED LANDS (EEL) PROGRAM
SELECTION & MANAGEMENT COMMITTEE (SMC)**

**March 11, 2008
Meeting Minutes**

CALL TO ORDER:

Ross Hinkle called the meeting to order at 1:06 PM.

PUBLIC COMMENT:

None.

MINUTES:

The February 27, 2008 minutes were presented for approval.

Ross asked for comments to the February minutes.

Paul Schmalzer stated that on Page 2 under listed plants, "ecistata" was spelled incorrectly and that Page 6, four lines from the bottom should read "The hammock-swamp complex remains 'wet', instead of 'set'."

Ron Hight mentioned that in the Public Comment on the first page there was a duplicate word in the following sentence. "Dan Gallagher mentioned that during a meeting last year, Paul Schmalzer discussed the Helen and Alan Cruickshank Sanctuary in Rockledge, and that Paul had had said that riding bikes would destroy the soil."

MOTION ONE:

Paul Schmalzer moved to approve the February 27, 2008 minutes as amended.

Ron Hight seconded the motion

The motion carried unanimously.

ADMINISTRATIVE REVIEW:

The Administrative Review was reviewed.

Mike commented that there was a handout from The Nature Conservancy that showed what people could do to facilitate getting the word out about establishing a successor to the Florida Forever Program.

Ross noted that the Florida Forever and Conservation and Recreation Land Acquisition (CARL) Programs have provided a tremendous amount of matching funds for the EEL Program.

Mike clarified that funding from these programs has almost doubled the EEL Program's land acquisition funding and that the Board of County Commissioners (BOCC) had voted to support a resolution to establish a successor to the Florida Forever Program.

SMC REPORTS

Ross commented that he had attended a Florida Forever meeting, sponsored by the Disney Wilderness Preserve, which was held to gauge public support for a successor program and that he had spoken on behalf of the EEL Program at the meeting.

Paul commented that he would be leading a Florida Native Plant Society field trip to Coconut Point in the South Beach Region on March 15th.

STAFF REPORTS:

None.

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THE NATURE CONSERVANCY:

Rebecca Perry reviewed The Nature Conservancy's March 11, 2008 Report to the SMC.

Ag Ventures LLC/Honeybrook Dev. Corp Property: New offer presented on 2/19/08, offer declined by landowner 2/27/08 with no counter offer.

Ross stated that he was not asking for specifics, but inquired as to whether or not there was a difference in the last offer and the previous offer to Ag Ventures. Rebecca stated that there was a pretty substantial difference, and that part of the issue was that they did not know what would be acceptable to the Board.

(Ft. Macaulay) aka Scottsmoor Partners Property: New offer presented 2/19/08, has not been accepted, or declined yet.

Mike clarified that the County Attorney's office was currently reviewing a white paper on the PUD issue and they were researching whether or not the Scottsmoor Partners Property might be able to be purchased without the purchase being contingent on acquisition of the Ag Ventures property.

Boyd and DiChristopher Properties: Updated appraisal reviews due 3/24/08. TNC will be able to make a new offer on these properties when the updated appraisal reviews are received. The original options previously reviewed by the BOCC will expire on 3/26/08. If the new offer is accepted, TNC will have to work very quickly to amend the original options by the 26th, or a new option agreement will need to be completed.

Hossain Property: Owner clarified on 3/11/08 that they are still willing sellers. Updated appraisals will be ordered so negotiations can start over.

Mike mentioned that there were plans for SMC discussion regarding the small sliver of property south of Malabar Road, which is part of the Hossain property that the Town has an interest in, at a future meeting.

AGENDA ITEMS:

Aura Ranch Property, Titusville

Public Comment

None.

Mike provided information on the 84.17± acre Aura Ranch property which is located southeast of the Hunters Brooke property in Titusville. A willing seller application was received on this property on October 31, 2007.

During the discussion, clarification was provided that there is a capped land fill near the middle of this property.

MOTION TWO

Mark Bush moved to decline the Aura Ranch property from further consideration.

Dave Breininger seconded the motion.

The motion carried unanimously.

Fulcher Property, near Grissom Road

Public Comment

None.

Mike provided information on the 158.6± acre James Fulcher property which is located near the southern portion of Grissom Road, near the Cidco Industrial Park. A willing seller application was received for this property on December 12, 2007. The property is not within the Florida Forever boundary.

Dave provided clarification that part of the area appeared to be well drained, but that he wasn't sure that this was the right time to consider this type of property.

Ross suggested consideration of a site visit.

Staff will schedule a site visit to the Fulcher property.

TICO Airport Properties

Mike provided review information on 3 properties currently held by the EEL Program which are located near the TICO Airport. These properties were previously owned by Brevard County and were purchased by the EEL Program in the 1990s.

Mike explained that when the properties were purchased by the EEL Program, there was an easement in favor of the Airport that required a specific vegetation height plan in the approach line for the landing of aircraft.

Ross clarified that during the discussions regarding the acquisition of the property, the SMC determined that if the Program was to manage that property as it needed to be managed, the vegetation height would not be an issue for the Airport.

On July 31, 2007, the SMC reviewed a request from the TICO Airport to exchange the 3 properties currently held by the EEL Program, for other properties. The request was declined by the SMC because it did not provide for a net conservation benefit to the EEL Program, and because the proposed exchange did not include getting the same amount of scrub habitat for scrub habitat.

Mike clarified that the Federal Aviation Administration (FAA) regulations have changed since the property was acquired, and according to the TICO Airport staff, the new guidelines require that a portion of the property adjacent to the runway must be stabilized grass, so that a plane coming off the runway had the ability to maneuver.

On November 8, 2007, the TICO Airport Authority held a workshop with the BOCC and requested that the BOCC consider approving an exchange. The BOCC directed the EEL Program to consider alternatives.

Mike stated that during the SMC discussion of this topic at the December 5, 2007 SMC meeting, he got the impression from the SMC that they felt an exchange of scrub habitat for other scrub habitat was an important consideration, but that there weren't that many places available where someone could purchase 52 acres of scrub without it being part of a larger landscape.

Mike explained that he wanted to present a couple of additional options for the SMC to consider and provided the following information:

- Consideration One: EEL Program exchange the two northern parcels (approx. 33 acres) for approximately 104 acres owned by TICO between Grissom and Perimeter Roads.
- Consideration Two: EEL Program exchanges all three parcels (approx. 52 acres) for approximately 93 acres currently owned by the industrial park between Armstrong and Shepard Drives.
- Dave Breininger suggested Consideration Three: EEL Program exchanges all three parcel (approx. 52 acres) for approximately 100 acres currently owned by Flagler Development on the southeast side of the airport.

Ron asked if there was a requirement to extend the east-west runway.

Mike stated there had been some conceptual plans to extend the runway over Grissom, but we were not aware of the airports current plans.

Public Comment

Maureen Rupe said that she was under the impression that those plans had been scrapped.

Additional Comment

Ross stated he was under the impression that there had been a lot of concern from the citizens in Port St.

John and that he also believed the plans had been discarded.

Dave asked if anyone had looked at the old photos to see what had existed prior to the suppression of natural fires.

Mike stated that the SMC would be looking at net conservation benefit, but the Airport staff would be looking at dollar value.

Paul commented that he felt that perhaps the best option would be to keep the east west green area and pick up the wetland and scrub, which would at least provide for a contiguous area, but that a three-way exchange would be complicated.

Dave asked if there was any new information on the Flagler property near that area.

Clarification was provided there was some remaining Flagler property in the area.

Public Comment

Jack Lembeck, citizen, asked if there was a timeframe on this issue.

Additional Discussion

Clarification was provided that during the original request for exchange, it seemed that there was need to expedite the exchange quickly, but that a deadline had not been discussed recently.

Mike explained that when the rules changed, the Airport had to move the theoretical end of the runway back.

Ross commented that shortening a runway was contrary to the Airport's vision of growth.

Staff will continue to gather information on possible options. Additional information will be provided.

Proposed Paved Trail at Malabar Scrub Sanctuary

Public Comment

Mary Sphar, citizen, stated she had read Ross's *Proposal to Resolve Bike Path Issues at Malabar Scrub Sanctuary* dated March 6, 2008, and that she would like to comment on some of the points that were included in the proposal. She said that the *Recommended Solution: Item 1b* requested that the SMC reconsider approving the paved trail on the east side of the sanctuary with several caveats, and that caveat *1bi* indicated "The trail will be as narrow as possible to meet the needs of the fire control equipment and EEL site management needs". She stated that she would like to point out, that according to the adopted minutes of the October 11, 2007 ARC meeting, Ms. Klerna had asked if the trail had to be 12 feet wide and she was told that it was a requirement of the DOT funding. Mary said that based on that statement, she was not sure how the paved trail could be made any more narrow.

In addition, Mary noted that *Item 1bii* indicated "The trail will be built with pervious surface if compatible to structural integrity for equipment access and free movement of chair bound visitors." She said that the October 11th minutes included a suggestion from Ms. Larson that "the trail be of natural composition, such as crushed rock". She said that the minutes also indicated that, at the October 11th meeting Mr. Knight stated he feared such a trail would "be torn up by fire engines using the fire road during prescribed burns and cause even more disturbance than paving it", and she was wondering if those items could be considered a little further.

She also asked for clarification on *Item 1bv* which stated "A plan to eventually remove the concrete road at least in part to mitigate the paved trail construction." because the April 6, 2007 SMC minutes indicated that it was felt that removal of the road would be extremely costly. She expressed her concern that although possible removal of the concrete road was mentioned in the letter that was sent to ARC, unless there were some teeth in the plan, it might not happen, as we were in a real funding crunch.

She expressed her concern regarding the importance of openness regarding possible plans for requests

for additional paved trails on other EEL Program sanctuaries. She said there was a clear plan which went through about 4 of the EEL Program Sanctuaries in the south part of the County, and that the SMC needed to be careful so it could perform its duty, which is quoted in State statutes and the Sanctuary Management Manual, to ensure that these lands are managed for the purpose for which they were acquired.

Mary said that she had also obtained the October 12, 2007 ARC minutes from DEP, and that Mr. Farr had summarized a list of what ARC would like to see. She stated that if something was going to be brought back to ARC, it needed to have all the requested information including:

- "More details on facility siting with a map
- Targets for restoration
- More analysis of the paved trail and where it should go
- A detailed design of the trail (including permitting requirements)
- Impacts of the trail and facilities on the resources"

Mike said that he would like to clarify the point of today's discussion. He said that his goal was to pass information on to the Recreation and Education Advisory Committee (REAC), so that once the information that Mary had summarized is prepared, it would be submitted to REAC and they'll reconsider their position and then it will come back to the SMC. Mike said there had been some discussion about having a joint meeting between the two committees and that either the SMC needed to bless the proposal to move forward, or there needed to be a joint meeting between the two committees, or, some other document needed to be created that noted the SMC's position. He indicated that he would prefer to have some input, just to keep the information flowing.

Mike stated he wanted to comment on a couple of the things that Mary had said. He clarified that that the funding source was going to be limiting, but that there are opportunities for exceptions to trail width for sensitive areas.

Barbara Meyer confirmed that trail planner engineers know that when they get to areas of critical significance, environmentally, or for safety reasons, that there can be exceptions, and that this would be what they would work towards, and that exceptions had been made in the past.

Mike clarified that the paved trail width has been a product of EEL Program staff concern because if the fire line was going to be used as a trail and for management, they either had to make the trail narrow enough so that the dirt fire line could remain next to it for vehicles, or that it needed to be wide enough to accommodate the fire equipment, which would require at least 8 feet, the width of the north boundary canal trail.

Paul Schmalzer stated that he was confused as to what the SMC was being asked to reconsider at this point, when the specific information regarding right of ways and impacts was not available. He said that he had the understanding that Marie Street and Malabar Road were being surveyed to clarify the right of ways to determine if they could be used as locations to place the paved trail.

Ross stated that he had drafted the proposal to get it on the table, and to determine what steps were needed for the SMC to come to a decision, and make an evaluation. He said he felt there was a lot of confusion about where the SMC stood, where REAC stood, where everybody stood, and that the best way to get rid of the confusion was to come forward to make sure that everyone was on the same page.

Paul stated he had read the ARC minutes from October 11th and 12th, and it was his opinion that the minutes showed a concern related to siting and impacts of the proposed paved trail, and siting of the facility, along with lack of specific restoration projects; not related to restoration of the concrete road, but of habitat restoration; and lack of a timetable for that restoration.

Mike added that the concerns regarding restoration were mostly on the west side.

Paul said that comments in the letter from Florida Natural Areas Inventory (FNAI) were also related to the

rare species on the east side, although that was not designated as part of the core conservation area.

Dave said that Ms. Larson's letter and the FNAI letter from Carolyn Kindell had spelled out a number of things that seemed fairly specific to him.

Paul stated he had reviewed the FNAI concerns which included:

- Continued decline of Florida Scrub-jay population after acquisition
- Identification of barriers to management and what was being done to address them
- Scrub-jay habitat monitoring plans
- Concern with rare species on eastern side of Malabar East, outside the core conservation area
- Lack of understanding of impact from the paved trail

Paul added that Ms. Larson's letter of October 3rd and the FNAI letter of October 10th were included as attachments to the November 2nd SMC minutes and that they included general comments about the placement of the paved trail and questions about consistency with management for biological diversity.

Dave stated that there were also questions about the impacts from the proposed paved trail on both plants and animals in the documents.

Ron Hight said that he has been involved with trails on wildlife refuges for many years and they have experienced situations where trails had been started prior to the realization that it either wasn't in the right location, or there were other things that needed to be addressed in more detail.

He also said that he wanted to be sure that support for Ross's proposal was not considered to be unilateral endorsement of trails anywhere, any time, and that he felt there were previous materials that would suffice from the standpoint of access for vehicles. Ron said that the legal questions had not been answered, but from his perspective, the SMC needed to move forward to try to work within the framework of what Ross had identified.

Mark Bush stated that he agreed, and that he didn't want to set a precedent here, for the other preserves, but that Malabar was a special case with a cloudy history and there didn't seem to be any cloudy history on the other sites that he was aware of, and that he wanted to make that very clear. He said he was in favor of moving forward with Ross's motion because the SMC wanted to maintain good relationships. He said that there was a fire break at Malabar Scrub Sanctuary already, and that it was an entirely different situation than driving a brand new trail through one of the other reserves. Mark stated that he was comfortable moving forward with what had been suggested, with the understanding that it applied to Malabar Scrub Sanctuary alone and it was not going to be a precedent anywhere else.

Dave Breininger said that he agreed with Mark. He expressed his concern regarding the process used previously, when he felt the SMC was presented with what he considered to be incomplete information and then rushed into a decision.

Ross confirmed that it was his understanding that they were only dealing with the Malabar Scrub Sanctuary at this time, and that was the only reason he was willing to come forward and try to offer some resolution. He said that if the proposal needed to be modified, that was fine, but that he felt that a resolution was needed. He said that the SMC had voted not to recommend the trail be placed on the east side of Malabar Road previously because the SMC did not have sufficient information to make an informed decision which could support that placement. But, it had gone forward anyway, and the Board of County Commissioners (Board) had supported it, the Management Plan had been sent to the State's Acquisition and Restoration Council (ARC), and ARC said wait a minute, the science committee recommended against this trail. Ross said that ARC was requesting additional information, some of which had been discussed by the SMC, and that he was trying to drive an end point, so the additional information, the SMC's review of the additional information and recommendation, could be sent back to ARC, and ARC can make their decision. He said that if the information shows that the impact is insurmountable, then ARC will not approve it.

Mike said that he felt it was important to note that if the SMC was going to recommend the proposal, it was with the understanding that there is not sufficient ROWs on Marie Street and Malabar Road to have the trail exist on the existing road right of ways, and that could be added into the proposal.

Mike said that the decision of the SMC weighed very heavily on the ARC Council. He stated his feeling that their concerns that he saw were the differences of opinion between the science and the politics, and he thought that it was an important issue. He said that he thought everyone would like to see everyone supporting it.

Paul said that he was not necessarily opposed to the proposal, but that he just wasn't seeing the information that ARC had requested, and he felt that they had a responsibility to ensure that the issues that ARC had raised were addressed.

Mike clarified that the requested paved linear trail at the Malabar Scrub Sanctuary would not come back to the SMC for reconsideration without the requested information, but that they would not see it until they reviewed the revised Management Plan. He said that the step today was just to get enough information to REAC, so they could make their recommendation to the SMC.

Ross clarified that the decision on the table was related to the Malabar Scrub Sanctuary only, that there was absolutely no assumption that it applied to any other area, and that the SMC had stated several times that each area would have to be evaluated independently.

Mark stated that as the trails get longer and more complete, the argument becomes more powerful to bring the next little piece, and the SMC needed to state right up front, that that would not wash.

Ross asked, if given more information, could there be a potential for reconsidering?

Dave said he felt there was.

Paul expressed his concern that some of the problems that occurred previously, which were a result of a difference of opinions between the SMC and REAC committees, came about because the two committees were working with different sets of information. He suggested that if they wanted to avoid that in the future, consideration should be given to whether or not the SMC should go back to the REAC committee with a recommendation that was not based on the information requested by ARC, and which the SMC said was important.

Mike said he was not clear on what that information was. He said that the SMC was going to find out that there was no room for a paved trail in the Marie Street or Malabar Road right of ways. He said that he was not sure that "impact" had ever really been defined, so he was unsure how far to take the impact issue.

Paul said if you narrow the trail, that will reduce the impact, and if you use a pervious surface, rather than impervious, there will be a different hydrological impact. He added that if the trail was not going to go around the outparcel but come out to Marie Street at the north end of the outparcel, which was discussed at the REAC site visit, that would also reduce the amount of linear impact and the number of acres that would have a non-pervious surface.

Mike confirmed that what was being proposed, right now, was the full width of 10 ft, as paved, and that in the design process, they would try to slim it down. So the decision would be to move forward with the trail, and everything from that point would be that, or less.

Paul asked if there had been wetlands determination.

Mike said they had been done.

Paul asked if a gopher tortoise survey had been completed.

Mike said that would be part of the information that they would be bringing back to the SMC as part of the revised Management Plan.

Dave asked if a gopher tortoise survey had been completed.

Mike clarified it would have been done with the placement of the fire line.

Chris O'Hara, South Region Land Manger confirmed that no gopher tortoise burrows were documented when the fire line was placed.

Dave asked for confirmation that there were no plans to remove additional habitat.

Mike confirmed there was not.

Chris stated that firebreak was habitat.

Dave asked for confirmation that if there was not enough right of way, they weren't talking about taking additional habitat and that they were planning on staying within the firebreak.

Mike confirmed that was correct.

Paul had asked if they had received confirmation that there was not a water retention issue.

Mike replied that it had not yet been fully determined, but that was not something that they were asking the SMC to approve at this time; it was something that had to be defined as the design process moves forward, and that the SMC would be involved in reviewing all those plans.

Dave asked if the regulatory process had been started from the standpoint of permitting.

Mike said no.

Barbara Meyer said she wanted to thank the SMC for reconsidering, and she thanked Ron for his comments. She said she thought the SMC was looking for a comfort level that we were all working together, and that the issues would be taken care of during the design process, but that they were in a quandary because it was difficult to design something and get funding if they did not have permission for it in the management plan.

She said she could assure the SMC that the trail planners had a very clear, and concise plan, and that although they did not yet have all the money for it, they felt it could be done. She confirmed that the SMC would be involved in the design and, if at any point, the design was not going to cut the mustard, or they were going to be stopped by permitting, then they would stop, as that was what their past had been, and that was what they would continue to do. She said that once the approval was in the management plan, they would move forward to the design phase and deal with the issues that were being discussed.

Barbara mentioned that there was some language in the Jordan Scrub Sanctuary Management Plan which would allow them to temporarily use a road for a trail.

Paul confirmed that, the language in the Jordan Scrub Sanctuary Management Plan allows the temporary use of an existing trail and a planned trail (not road) on a temporary basis. No paved trails are authorized for the Jordan Scrub Sanctuary and the Jordan Scrub Sanctuary Management Plan has been supported by REAC, and approved by the SMC and the State.

Ron stated the he wanted to reiterate what Dave had said, and that the SMC didn't like surprises. He explained that the SMC liked to be able to make informed decisions. He said that he had seen proposals for trails on property that he managed where he had not had the opportunity to provide input, and confirmed it gives you a bad feeling when you haven't had an opportunity to be engaged in a process. He said that conceptual things can be very dangerous, because they can go anywhere and you can go as far as you can go until you run into a road block, so all he would ask for is assurances that any time EEL Program lands are going to be part of an equation, even if it's a few years out, that clarification be brought before the SMC so it can be discussed, and the SMC can be informed and given an opportunity to give input.

Barbara stated that she totally agreed with Ron, and that when the paved trail plan was developed, trail planners had EEL Program staff on their technical committee. She said she had worked with Mike years

ago and that he has their shape files, and that they are working on what might come up and on what alternatives may occur.

Mike confirmed that discussion of the paved trail issue at other EEL Program sanctuaries has been on the agenda a few times in the past, but has been tabled due to time constraints. He said that it is anticipated that the item will be on the April SMC meeting agenda.

Ross reminded the group that they had started the process of systematic evaluation of all the sites by region to evaluate the major issues, and management needs, but they had gotten away from that.

Mike confirmed it was anticipated that would be on the April agenda as well.

Laura asked for clarification on the width of the proposed paved linear trail.

Mike confirmed that it was anticipated that the trail would be 10 feet wide, with a 2 foot buffer on each side, for a total of 14 feet.

Paul commented that he had forwarded information on rare plants and flora on the South Region to Mike for when the SMC held the next regional discussion and that he felt that the systematic review of the South Region should be held before consideration of any major recreational impact because ideas were floating around about extending the proposed paved trail, or that perhaps they could be considered together.

Barbara Meyer said that the ideas were not floating around, they were on maps. She also spoke briefly about pending arrangements with other agencies regarding possible placement of paved trails at other locations.

Mike asked if he could point out what he considered to be a couple of options. He stated that if the SMC was uncomfortable moving Ross's proposal to the REAC Committee, then he felt like the only solution was to have a joint meeting, so that every one could see the information at the same time and have an open discussion about it, because he felt that otherwise, the Program would be criticized for putting the request into a spin cycle, and he preferred not to do that.

Ron asked if Ross's proposal would be forwarded to the REAC Committee with an indication that the SMC supported reconsideration of the idea of a proposed paved trail at the Malabar Scrub Sanctuary - after the additional information requested by ARC had been received, and, with clarification that the proposal did not constitute a vote of support for the proposed paved trail from the SMC at this time.

Mike said that was correct.

Chris O'Hara confirmed that the SMC would be reconsidering their formal vote on the proposed paved trail, when the SMC reviewed the revised Malabar Scrub Sanctuary Management Plan.

Ron stated that he could support working within the parameters of what Ross had described in the proposal.

Mike said that if the SMC desired to forward the proposal to the REAC Committee, it would be beneficial if it could be clarified by a motion.

Paul stated that he had a few more comments on the proposal. He mentioned that Background *Item 4a* indicated that there was some uncertainty about heavy traffic across the Sanctuary at the boulevard area due to scrub jay families in that area, and he clarified that he did not believe that information was a concern expressed by the SMC.

Dave agreed that he did not think that concern was expressed by the SMC.

Mike indicated that the proposal could be changed.

Paul suggested that the reference be removed.

Dave agreed that was reasonable.

Ross indicated he did not have a problem removing that reference.

Paul also mentioned that Recommended Solutions *Item 1Biii* indicated the proposed paved trail could be used for ADA access, and that was a possibility, but that it would not be able to provide ADA access to the Education Facility.

Mike asked if referring to it as "additional" ADA access would be acceptable.

The group agreed.

Paul also commented on Recommended Solution *Item 1Bv* which indicated that "A plan to eventually remove the concrete road at least in part to mitigate the paved trail construction". He stated that the technical feasibility of that occurring was pretty far out as far as he was concerned, and stated he had published a paper on a related topic. He stated that he was concerned about indicating that the Program was going to restore concrete road to scrub.

Mark said that he felt that the notation referred to hydrological impact.

Ron agreed with Mark.

Paul suggested a change to clarify that removal of the concrete road was to partially mitigate hydrological impacts.

Barbara suggested that she could revise the scope of the project and ask the engineers to provide information on the feasibility on removal of part of the concrete road.

Mike stated it would be helpful information.

Mike stated that staff's perspective has been that removal of the concrete road would be a pipe dream unless there was a large mitigation project to provide funding.

Ross asked if the concrete might be useful as fill material, or if it could be recycled.

Ron stated that concrete could be pulverized and reused.

Clarification was provided was that in order to really restore the area of the concrete road, the area would need to be elevated.

Ross asked if Paul's concerns had been addressed.

Paul said yes.

Changes to Ross's proposal are noted below in tracked changes format.

Proposal to Resolve Bike Path Issues at Malabar Scrub Sanctuary

March 06, 2008

Submitted by Ross Hinkle

The purpose of this brief is to offer a solution to the stalemate in making decisions to move forward with discussion and resolution of the establishment of a paved bicycle trail at Malabar Scrub Sanctuary. It is based upon a meeting that occurred on Friday February 22, 2008 at Viera, Florida. Parties attending included representatives of EELS, EELS SMC, interested parties from the bike community, Town of Malabar, and interested members of the environmental community.

Background:

1. There have been several discussions regarding the establishment of the paved trail on the east side of the sanctuary.
2. At one point several years ago there was a discussion on the use of the concrete roadway near the current fire station and on the west side of the sanctuary. That option was dropped for various reasons and the trails folks decided to work with the Town to establish a trail head on the east side of the sanctuary. There was a plan

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drawn up and the Trails head was established with the assumption that the east side of the sanctuary could be used.

3. The EELS REAC committee reviewed the plan for using the east side of the sanctuary and recommended going forward to the EEL SMC.
4. The SMC discussed the options for a trail thru the sanctuary east side and voted against the trail on the east fire line with a recommendation to consider locating the trail along the existing concrete boulevard because:
 - a. The concrete boulevard already existed preventing the need for further pavement within the sanctuary.
 - b. There was uncertainty as to whether the Marie street and Malabar Road right-of-ways could be used and further info was needed to rule that option out.
5. The plan was sent to the BOCC for approval proposing the trail along the east fire line, which was inconsistent with the recommendation made by the EEL SMC. This caused some consternation on the part of the environmental community and the EEL SMC that precedents could be set in overruling the SMC recommendations due to public pressure.
6. The EEL SMC maintains a purely objective scientific approach to the decision and does not want to lose the objectivity in their decisions.
7. The sanctuary is deeded to the state so ARC has the final decision on the sanctuary plan implementation. They have deferred consideration of the trail due to the uncertainty associated with the SMC position and the BOCC's direction to resolve the issue.
8. The meeting on February 22nd was called to try and resolve the issue per the direction of the BOCC to county staff.
9. There was general agreement at the February 22nd meeting that the Trail planners have to have a resolution to this issue before they can invest in final planning.
10. The SMC is being asked to reconsider their decision to help move forward with ARC and the desires of the Trail planners and the Town of Malabar.

Deleted: However, there was some uncertainty about heavy traffic across the sanctuary at the boulevard area due to scrub jay families in that area.

Recommended Solution:

1. Request reconsideration by the EEL SMC with the following caveats:
 - a. Expedite the trail discussion and resolution to high priority with the SMC.
 - b. Ask the SMC to approve the trail on the east side of the sanctuary with the following caveats:
 - i. Clarification has been provided that there is an assumption by the Committee that there is not sufficient space in the existing right of ways on Marie Street or Malabar Road for the placement of the paved linear trail.
 - ii. The trail will be as narrow as possible to meet the needs of the fire control equipment and EEL site management needs.
 - iii. The trail will be built with pervious surface if compatible to structural integrity for equipment access and free movement of chair bound visitors.
 - iv. Use the trail as an additional ADA access area – similar to the concrete access trail at Enchanted Forest.
 - v. Set up a trail monitoring program similar to other sites to determine the user impacts near and off trail with plans to control usage
 - vi. A plan to eventually remove the concrete road at least in part to mitigate some of the hydrological impacts of the paved trail construction.
2. Take the EEL SMC reconsideration to the BOCC and send to ARC for their information.

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MOTION THREE

Mark Bush moved to present Ross's modified Proposal to Resolve Bike Path Issues at Malabar Scrub Sanctuary to the REAC Committee.

Ron Hight seconded the motion.

Ross asked if there were additional comments or questions. There were none.

The motion carried unanimously.

Acquisition Process Streamlining

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Mike explained that during the February 12, 2008 Board Land Acquisition Workshop, the BOCC had asked if the SMC could give some consideration to whether or not streamlining the acquisition process would be helpful in shortening the property acquisition timeframe. There were several contracts presented to the Board for approval recently that were near the date when the options would expire, and when last minute concerns were raised by the Clerk of Court, the Board felt they did not have enough time to properly review all the information that they had received.

Clarification was provided that after a signed acquisition contract is received, an EEL Program Selection and Management Committee meeting is scheduled for the SMC to consider final approval for the contract to move to the Board, and a Brevard County Land Acquisition Committee Review meeting is also scheduled in the event that the purchase price exceeds \$750,000. Clarification was also provided that recently, a number of acquisitions were flowing through the process at the same time; there were political concerns about having too many acquisitions on the table at one time; and, that the appraisal and negotiation processes also affect the length of time that it takes for a property to come under a signed contract.

The three processes outlined in the EEL Program’s Land Acquisition Manual (LAM) were reviewed. Mike clarified that the handout for this meeting was the same handout from the February 27th meeting when this topic was briefly discussed.

<u>LAM Process A/B</u>	<u>LAM Process C</u>	<u>Emergency Procedures</u>
Willing Seller Application SMC Meet App. Review SMC Site Visit SMC 1 st Majority Vote Appraisals SMC 2 nd Majority Vote Negotiations SMC Review of Contract BOCC Submittal	<i>(Used when SMC has already completed 1st & 2nd Majority Votes for a funding project.)</i> Willing Seller Application Appraisals Negotiations SMC Review of Contract BOCC Submittal	Willing Seller Application Emergency Assessment SMC Site Visit Landowner Testimony <i>(Justification for emergency acquisition)</i> SMC 1 st & 2 nd Majority votes <i>(In succession. Initiates Emergency Process. Requires unanimous vote)</i> Appraisals Negotiations <i>(Prior to review appraisal, if not more than a 10% or \$250,000 divergence)</i> BOCC Submittal

Mike clarified that Process C has not been used recently because, in most cases, significant time has passed since the initial SMC approvals. so staff prefers to reconfirm priorities with the SMC as willing sellers are identified, and complete new site visits, when needed to confirm site conditions have not changed since the historic votes were taken. He also noted that there were a few places in the LAM that might benefit from clarification, but that streamlining could take out the checks and balances that were built into the process. He opened the topic to general discussion.

Paul Schmalzer stated that he felt that if there were specific wordings that might clarify certain steps in the process, they could be discussed. He also said that if Process C was going to be used more in the future, that he would suggest that the Project boundaries be reviewed. He expressed his concern that trying to streamline the acquisition process could remove the checks and balances that were built into the process and noted that any revision to the Land Acquisition Manual would be a lengthy process that would require approval of the SMC, and the Procedures Committee (PC), before being sent to the Board for their approval.

Mark Bush stated that he was in favor of clearing up language that would help lead people to an understanding of what the Program did, but that generally, he felt this topic came under the guidelines of “If it isn’t broken, don’t fix it”, and he said he didn’t see the LAM as broken. He mentioned that when you have some people complaining that the system is too slow, and some people complaining that the system

is too fast, you’re probably doing the right thing down the middle.

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Mike clarified that the minor changes he was referring to were just a couple of things that were causing confusion for the auditors and that an overall revision to streamline the acquisition process was not in the same category as the minor changes he mentioned previously. Mike said that he was holding off on making the minor changes until issues with the Clerk's Office were resolved.

Paul stated that he felt that the delays were coming after the SMC's final approval to move the contracts to the Board. He stated that the SMC approved moving the Boyd and DiChristopher contracts to the BOCC in April of last year and they didn't get to the BOCC until December, so there may have been a variety of reasons for the delays, but they didn't relate to the Land Acquisition Manual or the SMC.

Ron Hight said that in his perspective, a program of land acquisition needs clear oversight, from the beginning to the end. He said he didn't think the process was broken or that anything needed to be fixed. He stated that the SMC just needed to be aware of past issues, and that they would do their part.

Ross said that he thought that the request that came to the SMC to look at this and consider changes, was done to solve a problem that neither the LAM, or the SMC caused and that he felt the process was fine. He stated that when the Procedures Committee wrote the original LAM, and then when the Procedures Committee and Selection and Management Committee completed the former revisions to it, they went through scenarios of checks and balances. He stated the delays were not in deciding to purchase land, or in determining if the land met the criteria for acquisition; the hold up came when the process was challenged every time on various aspects of the acquisition process. Ross said that he did not feel that any major changes were needed.

Public Comment

Jack Lembeck stated that his perspective from analyzing it from the outside was that he did not see a problem with the process. He said that he was associated with the group from Ulumay Sanctuary and he had attended this SMC meeting in an effort to learn more about the EEL Program's land acquisition process.

Additional Discussion

Mike clarified that he was available to Mr. Lembeck if he ever needed additional information.

Paul asked for clarification on the BOCC's February 12th Workshop discussion regarding the possibility of incorporating the Clerk of the Court earlier in the land acquisition process.

Mike stated that there were two things that came from the workshop: 1) requesting that the SMC consider whether or not there would be any benefit to streamlining the front end of the acquisition process, and 2) discussion on how to involve the Clerk's Office in the process so they can get the information earlier. He stated that there had been one meeting on this topic, and that information was too preliminary to pass on at this point, but that he would circulate information out to the SMC when things became a little more solidified.

Confirmation was provided that a date for these items to go back to the BOCC has not yet been confirmed.

Ross asked if a motion was needed from the SMC on this item.

Mike clarified that his preference would be to have a motion from the SMC, just for clarity.

MOTION FOUR

Ron Hight moved that the EEL Program should continue to use the standardized, approved land acquisition procedures that are in place, without any changes.

Paul Schmalzer seconded the motion.

Ross asked for further questions or discussion. There were none.

The motion carried unanimously.

Sanctuary Management Manual Language Revision for BOCC

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Public Comment

Mary Sphar, citizen, commented that in her opinion, the remaining language for the EEL Program's Sanctuary Management Manual revision didn't seem to accomplish much, and that she didn't see the point in submitting it to the BOCC.

Additional Discussion

Mike stated that the language from the last suggested revision had been declined by the BOCC. He said that the language which had been crossed out at the bottom of the document that was being reviewed today was basically the sentence that he thought previously put everyone at ease in getting the issue resolved. He said that the group should correct him if he was wrong, but in his opinion, what transpired at the Board Meeting was a debate over the last sentence.

Public Comment

Suzanne Valencia, citizen, agreed that the final sentence had caused great consternation.

Additional Discussion

Mike said that, at this point, there were a couple of things that could happen. The Program could go back to the BOCC with this language handed out today, or they could wordsmith it some more. He stated that he felt that the first sentence in today's language makes a clear statement that that the SMC must do a final review and authorization to proceed to the Board, before a Management Plan can be submitted to the Board for final approval. He said that he felt that was an important statement that wasn't in the Manual now, and that it was consistent with what the Program had always done.

Clarification was provided that the EEL Program's Land Acquisition Manual contains language that prevents the Board, or anyone else, from identifying lands for acquisition that have not been approved, and recommended by the SMC, and that the original intent of these revisions was to tighten the language of the Sanctuary Management Manual to the same level as what is in the Land Acquisition Manual.

Paul commented that the original revision language previously approved by the SMC on December 5, 2007 also included "for informational purposes" which did not show up in the document being reviewed at the meeting.

Mark Bush commented that stake-holder should be hyphenated.

Clarification was provided that it seemed that perhaps the Board interpreted the previous language as indicating that they would only see ideas that the SMC had approved, rather than what the language actually intended, which was that all ideas for land use would be included in the plan, for informational purposes, but that only those activities approved by the SMC would be included as part of the approved actions for land use and management.

Mike stated that anyone at any time can raise a concern to the Board about what they like, or dislike about anything, and the Board could take whatever action it wanted to have the Program review it.

Paul stated that the ultimate political authority in the County resides with the BOCC, and they can approve or disapprove management plans; and, that they can approve or disapprove, or do nothing about acquisitions; so it's the involvement of citizens, and their support of the Program that is important for keeping the EEL Program as a science based program.

Public Comment

Maureen Rupe agreed, and she expressed her concern that if politics are brought into the EEL Program, than citizens may, or may not approve another referendum.

Additional Discussion

Mike stated that with the new language, he did not feel that he had the ability to take a plan to the BOCC that would be contrary to what was authorized by the SMC, so as Program Manager, that helped him immensely.

The proposed changes to the Sanctuary Management Manual are noted below in tracked changes format:

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“The following non-procedural revisions are proposed. Similar revisions were approved by the BOCC on December 13, 2005.

1. EEL office address, phone, website and email information.
2. Related changes to the table of contents.
3. Addition of references to the 2004 referendum.
4. Name change of State CARL Program to Florida Forever Program.
5. SMC Committee membership at the time of revision.
6. Pg. 29: EEL Program organizational chart (current staffing).
7. Pg. 20: Map of centers for regional management (current).
8. Pg. 22: Proposed and acquired map (current).

The following language addition is proposed for page 15.

1. “Prior to presenting a Site Management Plan to the Board of County Commissioners, EEL staff will present the complete Plan with amendments and appendixes, to the Selection and Management Committee for final review and authorization to proceed to the Board. The plan should list for informational purposes, all REAC recommendations, stakeholder input, and public comment. During the SMC review and discussion, the primary question to be answered is: Does the Site Management Plan meet the Program objectives and needs and should the EEL SMC recommend that the BOCC approve the Plan?”
2. Addition of the EEL Species Translocation Policy as approved by the Selection and Management Committee.”

Deleted: Only those plans, plan amendments, and changes in management or land use that have been approved by the SMC shall be brought before the BOCC for approval”.

MOTION FIVE

Paul Schmalzer moved to approve the amended Sanctuary Management Manual Language, with revisions as noted in the discussion.

Mark Bush seconded the motion.

Ross asked if there were questions or public comment. There were none.

The motion passed unanimously.

Public Comment

Mary Sphar stated that the only way that the proposed paved trail would be acceptable to them was if the concrete boulevard is removed. She stated that she knew that restoration was expensive, but she felt that the sanctuary would be better off with dirt in the area, as opposed to concrete, and asked if it might be possible that the concrete be removed as part of a volunteer effort.

Maureen Rupe commented that perhaps the use of heavy equipment might be donated.

Additional Discussion

Dave Breininger stated that he would have concerns about taking up the concrete without raising the level of the ground because he was worried about creating an exotics problem, and that at least the exotics could not grow in concrete. He stated his preference for a complete restoration project.

Ross said he agreed that he would favor removal of the concrete with the restoration of native species.

Maureen Rupe stated that they wanted to see the site restored, but expressed her concern that if the concrete was not removed as a first step, it would never be removed.

Mike stated that he felt everyone was in agreement that it would be good to reduce the footprint of the concrete boulevard, but that it was important to have a good plan in place, because otherwise you could be creating a bigger problem.

Dave stated that if the resources were limited, other than the political perspective, he could think of a large number of other things that need to be done from a habitat perspective before removing the concrete boulevard.

Ross asked Dave if he would object to the removal of the concrete, if there was funding for it.

Dave said he wouldn't object to removal and restoration if they had the funding to do it right, but that he could think of a lot of more important things to do that are keeping species from recovery than dealing with

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that concrete right now, and his concern was that if the restoration wasn't done well, it would provide a place for cogon grass, Brazillian pepper, and other invasive exotics.

Mike stated that another way to approach the issue was in phases.

Dave stated that if he was going to do anything at the Malabar Scrub Sanctuary now, with a limited amount of time and money, he would suggest restoring it to an open savannah, and do mechanical cutting and burning of trees, thinning them out, because that is what was affecting species viability now, rather than rushing into something that might created a spread of exotics throughout the landscape that would have to be managed.

Mike commented it was a matter of priorities.

The need to clarify where the funding for theses projects would come from was discussed.

Public Comment

Jim Durocher mentioned that as a member of the REAC committee, he wanted to clarify that they needed as much information as possible when they considered this issue.

NEXT MEETING:

It was determined that the next meeting would be held on April 8, 2008.

ADJOURNED:

The meeting was adjourned at 4:10 PM.

SUMMARY OF MEETING MOTIONS:

- Motion to approve the February 27, 2008 minutes as amended.
- Motion to decline the Aura Ranch Property from further consideration.
- Motion to present the Ross's modified Proposal to resolve Bike Path Issues at Malabar Scrub Sanctuary to the REAC committee.
- Motion to continue to use the standardized, approved land acquisition procedures that are in place, without any changes.
- Motion to approve the amended Sanctuary Management Manual Language, with revisions as noted in the discussion.