

**Lee County Board of County Commissioners
Agenda Item Summary**

Blue Sheet No. 20030176

1. REQUESTED MOTION:

ACTION REQUESTED: Approve a resolution authorizing the conveyance of the Mullock Creek Preserve, located in Section 13, Township 46 South, Range 24 East, to the State of Florida Department of Environmental Protection (DEP); authorize the Chairman on behalf of the Board of County Commissioners to execute the attached Resolution and County Deed; authorize the Division of County Lands to handle and complete all documentation necessary to finalize the transaction.

WHY ACTION IS NECESSARY: To assist the Florida Department of Environmental Protection in meeting the requirements of a grant awarded to them by the U.S. Fish and Wildlife Service to acquire and restore 1,515.35 acres within the Estero Bay State Buffer and Aquatic Preserve.

WHAT ACTION ACCOMPLISHES: Approval of the requested motion provides for the donation of 129 ± acres of County owned land, known as the Mullock Creek Preserve, to the State of Florida Department of Environmental Protection and provides a partnership for the protection of Estero Bay State Buffer and Aquatic Preserve. Conveyance will be conducted in compliance with F.S. 125.38.

2. DEPARTMENTAL CATEGORY: 06

COMMISSION DISTRICT #: 3

C6C

3. MEETING DATE:

03-18-2003

4. AGENDA:

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON

TIME REQUIRED:

5. REQUIREMENT/PURPOSE:

- (Specify)
- STATUTE 125.38
 - ORDINANCE
 - ADMIN.
 - OTHER

6. REQUESTOR OF INFORMATION

- A. COMMISSIONER
 - B. DEPARTMENT *Independent*
 - C. DIVISION *County Lands*
- BY: *Karen L. W. Forsyth, Director* *KLF*

7. BACKGROUND:

Lee County acquired title to the 129 ± acre Mullock Creek Preserve as a donation from the estate of Claude E. Taylor in 1993. This preserve consists entirely of wetlands. The County received no funds for management of the preserve, which has some invasive exotic vegetation.

DEP staff contacted Lee County staff in 1998, when they applied for the National Coastal Wetlands Conservation Grant program, which is administered by the U.S. Fish and Wildlife Service, regarding the possible donation of the preserve to DEP as part of the match. Lee County staff indicated to DEP staff that they were in favor of the donation, contingent upon the approval of the Board of County Commissioners, as it would allow the preserve to be managed as part of the encompassing Estero Bay State Buffer and Aquatic Preserve. The County does not have funding available for the management of this preserve area. The benefit of donating the preserve includes the provision for the management of the site by DEP, through funding the DEP has established under a management grant, as a component of the Estero Bay State Buffer and Aquatic Preserve. DEP is willing to install a sign near the preserve acknowledging Lee County's dedication to the environment through the donation of the land.

The grant expires on March 31, 2003, thus donation needs to occur by that date.

- Attachments: Resolution Map of Subject Area
 County Deed
 Written Application from State of Florida DEP

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL:

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
<i>K. Forsyth</i>				<i>for scheduling</i>	OA <i>3-6-03</i>	OM <i>3/6/03</i>	RISK <i>3/6/03</i>	GC <i>3-6-03</i>	<i>W. C. ...</i>

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

3/5/03

Rec. by CoAtty
 Date: 3-5-03
 Time: 11:15 AM

RECEIVED BY
 COUNTY ADMIN. *EW*
 3-5-03
 COUNTY ADMIN. *HL*
 3/6/03
 11:01 AM

Forwarded To:
 Cty Admin
 3-5-03 3:45 PM

**RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS, LEE COUNTY,
AUTHORIZING CONVEYANCE BY DONATION OF COUNTY OWNED LAND IN
SECTION 13, TOWNSHIP 46 S, RANGE 24 E, TO THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION.**

WHEREAS, Lee County declares that the purpose of this Resolution is to convey 129 ± acres of a County owned land to the State of Florida Department of Environmental Protection pursuant to a request by the said Department in order to allow the Department to proceed with the acquisition and restoration of 1,515.35 acres within the Estero Bay State Buffer and Aquatic Preserve and;

WHEREAS, pursuant to Section 125.38 F.S., the Board of County Commissioners has authority to convey County property to the State of Florida Department of Environmental Protection without advertisement and without compensation or consideration because the State of Florida Department of Environmental Protection is a Department of the State of Florida, and;

WHEREAS, the Board of County Commissioners has determined and is satisfied that the property is not needed for County purposes and that by virtue of conveyance to State of Florida Department of Environmental Protection, the property will benefit the public or community interest and welfare and will continue to be in public ownership.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, that this Board authorizes this conveyance of said land as described in Exhibit "A" to the State of Florida Department of Environmental Protection without payment of any consideration therefor, and authorizes the execution of the County Deed for and on behalf of Lee County for such purposes, with the forms attached hereto and made a part hereof.

The foregoing Resolution was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____, and upon being put to a vote, the vote was as follows:

BOB JANES _____
DOUGLAS ST. CERNY _____
RAY JUDAH _____
ANDREW W. COY _____
JOHN E. ALBION _____

THIS RESOLUTION WAS DULY PASSED AND ADOPTED THIS _____ day of _____, 20__.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY
COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Chairman or Vice-Chairman

APPROVED AS TO FORM:

By: _____
Office of County Attorney

Lands South of
Tidewater Island Subdivision
Section 13, Township 46 South, Range 24 East
Lee County, Florida

Commencing at the North quarter (N 1/4) corner of Section 13, Township 46 South, Range 24 East at a concrete monument; thence run S 01 degrees 08'50" E along the West line of the East one-half (E 1/2) of said Section 13, a distance of 1842.23 feet to the point being a concrete monument of the beginning of the herein described parcel; being the Southerly boundary of lands being plotted as Tidewater Island Subdivision; thence N 88 degrees 51'10" E 285.87 feet; thence S 78 degrees 49'33" E 834.00 feet to a point of curve; thence Northeasterly 546.53 feet along the arc of a circular curve concave to the North having a radius of 619.92 feet and being subtended by a chord which bears N 75 degrees 55'03" E 529.00 feet; thence N 50 degrees 39'40" E 62.96 feet; thence Northerly 279.06 feet along the arc of a circular curve concave to the Northwest having a radius of 573.11 feet and being subtended by a chord which bears N 36 degrees 42'42" E 276.31 feet to a point of reverse curve; thence Easterly and Southeasterly 102.04 feet along the arc of a circular curve concave to the South having a radius of 50.77 feet and being subtended by a chord which bears N 80 degrees 20'53" E 85.71 feet; thence S 42 degrees 04'00" E 23.23 feet; thence S 52 degrees 18'46" E 150.56 feet; thence S 73 degrees 05'02" E 159.07 feet; thence S 84 degrees 49'24" E 430.00 feet more or less to the East line of said section 13, thence S 1 degree 25'00" E along said East section line 1,350 feet more or less to the center line of Mulloch Creek; thence run Southwesterly, Westerly, Northwesterly, Southwesterly, Westerly, Northwesterly, Westerly, Southwesterly and Westerly along said centerline to an intersection with the West line of said Government Lot 1; being the West line of the East half (E 1/2) of said Section 13; thence N 01 degrees 00'50" W along said West line a distance of 3,090 feet (more or less) to the point of beginning of the herein described parcel.
Less and except that portion lying East of Ten Mile Canal.

Exhibit "A"

This Instrument Prepared by:
DIVISION OF COUNTY LANDS
Post Office Box 398
Fort Myers, Florida 33902-0398

STRAP No.: 13-46-24-00-00002.0000

THIS SPACE FOR RECORDING

COUNTY DEED

THIS DEED, executed this ___ day of _____, 20__, by LEE COUNTY, FLORIDA, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA, whose address is Post Office Box 398, Fort Myers, Florida 33902-0398, COUNTY, to STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION, whose address is 3900 Commonwealth Boulevard, M.S. 35, Tallahassee, Florida 32399-3000, Grantee.

WITNESSETH: The COUNTY, for and in consideration of the sum of Ten (\$10.00) Dollars to it in hand paid by the Grantee, receipt whereof is hereby acknowledged, has granted, bargained and sold to the Grantee, its heirs and assigns forever, the following described land, lying and being in Lee County, Florida:

That Property legally described in attached Exhibit "A". This conveyance is specifically subject to those covenants, conditions, and reverters contained in attached Exhibit "B" and, Grantee, by accepting this conveyance specifically accepts and agrees to be bound by the stated covenants, conditions and reverters.

In accordance with Florida Statutes s. 270.11, the COUNTY hereby reserves an undivided three-fourths interest in, and title in and to an undivided three-fourths interest in, all the phosphate, minerals, and metals that are or may be in, on, or under the subject land and an undivided one-half interest in all the petroleum that is or may be in, on, or under the subject land with the privilege to mine and develop each interest. Provided, however, the right of entry with respect to any interest in phosphate, minerals, metals or petroleum reserved in favor of the County is hereby released if the subject parcel being conveyed is or has always been a contiguous tract of less than 20 acres in the aggregate under the same ownership.

This grant conveys only the interest of the County and its Board of County Commissioners in the property herein described, as conveyed to Lee County in Official Records Book 2381, Page 908 and 909, and does not warrant the title or represent any state of facts concerning the title.

IN WITNESS WHEREOF the COUNTY has caused these presents to be executed in its name by its Board of County Commissioners acting by the Chair or Vice Chair of said Board, the day and year above.

(OFFICIAL SEAL)

ATTEST:
CHARLIE GREEN, CLERK

LEE COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Chairman

APPROVED AS TO LEGAL FORM:

Office of County Attorney

Lands South of
Tidewater Island Subdivision
Section 13, Township 46 South, Range 24 East
Lee County, Florida

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Less and except that portion lying East of Ten Mile Canal.

Exhibit "A"

Covenants, Conditions and Reverters

1. The Property described herein, is being conveyed to the State of Florida Department of Environmental Protection, Grantee, for the purpose of restoration and protection of the Property, which will be managed as a part of the Estero Bay State Buffer and Aquatic Preserve and will benefit the public or community interest.
2. If, at any time, the Property ceases to function and be maintained as a protected natural preserve, benefitting the public or community interest, then title to the Property will automatically revert to the COUNTY.

EXHIBIT "B"



Department of Environmental Protection

Jeb Bush
Governor

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

David B. Struhs
Secretary

March 3, 2003

Mr. Roger Clark, Land Stewardship Manager
Lee County Division of Parks and Recreation
3410 Palm Beach Blvd.
Fort Myers, Florida 33916

Subject: Mullock Creek Preserve Donation
Lee County Section 13, Township 46S, Range 24E

Dear Mr. Clark:

I am writing in reference to the Mullock Creek/ Hendry Creek land acquisition and restoration grant awarded to the Estero Bay Aquatic and State Buffer Preserves office by the U. S. Fish and Wildlife Service, National Coastal Wetlands Conservation grant program. As you are aware, the grant included "match" from both the State of Florida and Lee County. The match to be provided by Lee County is donation of the 129 acre Lee County Mullock Creek Preserve to the State. The parcel will be included within and managed as part of the Estero Bay State Buffer Preserve. As required by the grant, all other acquisitions and match have been completed. Other than some restoration activities and the Final Report, the Lee County donation is the remaining step for the completion of this grant, the total of which is valued at \$2,522,165.00.

I understand there is no County funding in place for management of the Mullock Creek Preserve, and that Conservation 2020 funds are not available for lands which Lee County already holds title. Exotic plant control is needed on this site, and funds provided by CARL (Conservation and Recreation Lands) will provide long term maintenance of exotic plant control as well as all other land management needs on this site.

Please accept this letter as my request to bring this donation before the Lee County Board of County Commissioners for their approval. We are certainly willing to work out details of any Lee County requirement for this donation including formal acknowledgement of the donation through signage and/or other means. I look forward to a great partnership with Lee County to preserve this 1,515.65 acres for present and future generations. Thank you so much for your time and consideration of this request.

Sincerely,

Katherine Andrews, Director
Office of Coastal and Aquatic Managed Areas

KA/hse

"Protect, Conserve and Manage Florida's Environment and Natural Resources"

Printed on recycled paper.

TOTAL P.02

Mullock Creek Preserve



THE COUNTY LANDS DIVISION HAS PREPARED THIS MAP FOR INFORMATIONAL PURPOSES ONLY. DETAILS SHOWN MAY BE UNOFFICIAL DETERMINATIONS AND MAY NOT BE ACCOMPANIED BY WARRANTY OR GUARANTEE. WHILE THE DIVISION HAS MADE EVERY EFFORT TO PROVIDE THE CORRECT INFORMATION, INDEPENDENT VERIFICATION MAY BE REQUIRED.

Revised: Mar. 12, 2003

