



**ENVIRONMENTALLY ENDANGERED LANDS (EEL) PROGRAM**  
**Procedures Committee Meeting**  
**February 8, 2007**  
**Attendance List**

***PROCEDURES COMMITTEE MEMBERS***

Ralph McCoig  
Wayne Mozo  
Rocky Randels, Chair  
Amy Tidd  
Leesa Souto  
Kim Zarillo

***EEL PROGRAM STAFF***

Jenny Ashbury  
Sandy Carnival  
Laura Clark  
Mike Knight

***THE NATURE CONSERVANCY***

Danika Feodoroff  
Keith Fountain

***GUESTS***

Susan Gosselin, Brevard County Natural Resources Management Office  
Paul Schmalzer, EEL Program Selection and Management Committee



**ENVIRONMENTALLY ENDANGERED LANDS (EEL) PROGRAM**  
**Procedures Committee (PC)**  
**February 8, 2007**  
**Meeting Minutes**

**CALL TO ORDER:**

Rocky Randels, Chairman, called the meeting to order at 1:04 PM. He welcomed Ralph McCoig and Amy Tidd to their first Procedures Committee meeting. It was noted that Diane Stees, Kim Zarillo, and Rocky Randels have served on the Procedures Committee since the Land Acquisition Manual was first published.

**PUBLIC COMMENT:**

None.

**AGENDA ITEM:**

**Review of Clerk's Audit Findings**

Mike Knight, EEL Program Manager gave a presentation regarding EEL Program audits.

Copies of the June 15, 2006 Clerk's Audit Report regarding the March 23, 2006 (Actually approved by BOCC on April 11, 2006) Parrish / Holder property acquisition and the November 20, 2006 EEL Response to the audit were e-mailed to Committee members prior to the meeting. During the meeting, copies of the January 2006 revisions to the EEL Program's Land Acquisition Manual (Resolution 06-007) and a copy of the January 23, 2007 Board of County Commissioners (BOARD) Agenda Report regarding the Clerk's audit of the Parish / Holder acquisition, with the Clerk's rebuttals to the EEL Program responses were also distributed.

Staff provided a brief history of audits of the EEL Program which included a brief summary of the audit scope by the County's internal auditors (Hoyman, Dobson, and Company, P.A.) in 2004.

The findings of the Clerk's Audit of the EEL Program's purchase of the Parrish / Holder property were discussed next. Mike explained that the Clerk's Office had asked to come to the EEL Program to review the Parrish / Holder acquisition file on May 18, of 2006. At this time, the EEL Program was notified that the Clerk's Office would be performing an audit of the acquisition.

Subsequent events occurred as follows:

- Ten original (10) findings were identified
- EEL Program responses were provided
- Clerk's auditors issued rebuttals to responses
- EEL staff met with the auditor to review the rebuttals
- Clerk requested review by BOCC at regular meeting
- BOCC requested workshop for Clerk
- Clerk issued new audit report (16 findings)
- Upon receipt of the new 16 findings, the EEL Program was notified by the Clerk's Office that the new findings were not an audit and that an audit would not be generated unless the Ag Ventures property acquisition was submitted to the BOCC for approval.

Mike reviewed the original audit findings from the Parrish / Holder property acquisition. The ten (10) findings that were identified, and each of the EEL Program's responses were discussed.

### **Finding 1**

#### ***Finding:***

- **Appraisers used hypothetical assumption of zoning change to determine value.**

#### ***EEL Response:***

- As per USPAP guidelines, appraisers do make assumptions that are "legally permissible" and "reasonably probable"
- "Hypotheticals" are not probable to occur.
- Appraisals are "Highest and Best Use"

#### ***Discussion:***

- Keith Fountain, from The Nature Conservancy stated he felt that the use of the words "hypothetical assumption" was a misuse of terminology.

### **Finding 2**

#### ***Finding:***

- **Inconsistent appraisal procedures "As-Is" versus "Highest and Best Use"**

#### ***EEL Response:***

- Improper comparison by auditor between Thousand Islands and Parrish Holder
  - Thousand Island (Crawford) rezoning was not probable.
  - Parrish Holder rezoning was probable.

### **Finding 3**

#### ***Finding:***

- **Selection and Management Committee (SMC) should assign dollar value maximum to identified properties prior to identification of willing sellers and completion of appraisals.**

#### ***EEL Response:***

- Conservation priorities are assigned
- Appraisals determine value
- SMC reviews cost prior to BOCC approval

#### ***Discussion:***

- Mike clarified that the SMC assigns a conservation priority value to each property being considered for acquisition, and that this is done prior to identification of willing sellers or requests for appraisal. State certified appraisers determine the dollar value of the land. Each acquisition contract is reviewed by the SMC prior to being presented to the Board.
- Paul Schmalzer, Selection and Management Committee member noted that all property in the County had been reviewed and prioritized as part of the justification for the November 2004 referendum.
- Kim Zarillo, EEL Procedures Committee and Selection and Management Committee member stated that determination of a maximum dollar value for any property would be out of the scope of the SMC. She referred to the TNC spreadsheet which includes an overview of land acquisition activity progress which is provided on a monthly basis to the SMC for their review emphasized that the willing seller / prioritization process was continually reviewed as circumstances changed.
- It was noted that if a dollar value was assigned by the SMC, as suggested in the audit report, that the information would be public record and available to the owners of land the EEL Program was trying to purchase, affecting negotiations.

*February 8, 2007*

*Page 2 of 5*

*Approved February 27, 2008*

#### **Finding 4**

##### *Finding:*

- **SMC did not complete 2<sup>nd</sup> Majority Vote required for negotiations of property.**

##### *EEL Response:*

- The SMC 2<sup>nd</sup> Majority Vote is clearly documented and was done at the time the boundary amendment was completed.

##### *Discussion:*

- Clarification was provided by staff that this information was submitted to the Clerk's office early on in the audit process.

#### **Finding 5**

##### *Finding:*

- **Appraisals used unexecuted contracts and related-party transactions as comparable sales.**

##### *EEL Response:*

- Appraisers may not use pending sales except as marked indicators.
- One appraiser used a pending sale incorrectly. Removal of sale caused value increase.
- All comparable sales used were arm-length transactions as required by USPAP. Related-party transactions are not a problem.
- (i.e. Seller to himself versus seller to another party)

#### **Finding 6**

##### *Finding:*

- **Review appraisal did not follow EEL Program Land Acquisition Manual (LAM) Rules.**

##### *EEL Response:*

- Review appraiser certified that the appraisals met required standard.
- One appraiser did mistakenly reference on one page that the appraisal was As-Is, but the typo had no bearing on value.
- This is not a deviation from the standards. The report clearly documents elsewhere it is Highest and Best Use.
- Staff agrees that these typos should be caught in the staff review process.

##### *Discussion:*

- Mike clarified that the requirements for appraisals for the EEL Program exceed both Brevard County and State land acquisition requirements and that the findings in this item related only to typographical errors.

#### **Finding 7**

##### *Finding:*

- **BOCC did not approve waiver to negotiate with option holder in advance.**

##### *EEL Response:*

- Staff agrees this should have happened.
- Confusion stems from LAM: SMC authorizes negotiations
- County Acquisition Review Committee caught this and recommended waiver request as part of agenda.
- BOCC approved the waiver request as part of the agenda.

##### *Discussion:*

- Keith Fountain clarified that all information related to owners and option holders was clearly included in the Agenda Report when the property was submitted to the Board for their approval.

*February 8, 2007*

*Page 3 of 5*

*Approved February 27, 2008*

## **Finding 8**

### *Finding:*

- **Acquisition placed on consent agenda.**

### *EEL Response:*

- Accident. It was caught during the Commissioner Briefing process the week prior to the BOCC meeting and the decision was made by the County Manager's office to leave it on Consent as it was being pulled for discussion anyway.
- Rule: Any acquisition valued over \$100,000 is placed on the New Business Agenda.

## **Finding 9**

### *Finding:*

- **One appraiser incorrectly stated the value of the pending contract between the owner and option holder.**

### *EEL Response:*

- At the time of the appraisals the only information available regarding the value of the option holder's contract was from the option holder.
- Any changes to the contract after the appraisals would not be known, nor would they have an affect on the appraiser's valuation of the property.

## **Finding 10**

### *Finding:*

- **Clerk's office hired an appraiser to complete a desk review of the appraiser to complete a desk review of the appraisals.**

### *EEL Response:*

- The appraiser had been removed from the DEP approved list of appraisers.
- The desk review does not follow the standards that are required of a review appraisal.
- Multiple appraisals will always have multiple opinions. EEL Program rules required that appraisals are not greater than 20% divergent in value to be accepted. It is for this reason that multiple appraisals are done.

### *Discussion:*

- Committee members expressed their understanding that qualified professionals following the same rules could have differences in opinion of value. Mike explained that is why more than one appraisal is requested.

Mike briefly reviewed the 16 additional findings received on January 30th by the EEL Program after the response to the original 10 findings was submitted. This information, along with EEL Program responses, will be forwarded to Committee members for their review.

## **Additional Discussion**

Members of the Committee expressed their support for the corrective action measures that were noted by staff and voiced their appreciation for the work being done by the EEL Program.

Paul Schmalzer stated his opinion that several items in the Clerk's information contained inaccurate statements.

Wayne Mozo stated his opinion that having to respond to continually changing audit findings was not a productive use of time.

Concerns were expressed by some members relative to the amount of time and added expense

*February 8, 2007*

*Page 4 of 5*

*Approved February 27, 2008*

required to respond to multiple audits. They also stated that while they understood that audits were a routine part of business, the proper procedures for conducting an audit did not appear to have been followed in this case.

#### **Motion One**

**Kim Zarillo made a motion to state that the Procedures Committee has been briefed by staff as to the 10 original items in the Clerk's Audit. The Committee is satisfied with staff's response and staff's indication of corrective action to be taken as noted in the presentation. The Committee feels it is imperative to allow the EEL Program to go forward as this is a critical time for land acquisitions.**

**Leesa Souto seconded the motion.**

**The motion carried unanimously.**

#### **NEXT MEETING:**

A joint meeting of the EEL Program's Selection and Management Committee and Procedures Committee will be scheduled in the near future.

#### **ADJOURNED:**

The meeting was adjourned at 3:10 PM.

#### **SUMMARY OF MEETING MOTIONS:**

- Motion stating that the Procedures Committee has been briefed by staff as to the 10 original items in the Clerk's Audit. The Committee is satisfied with staff's response and staff's indication of corrective action to be taken as noted in the presentation. The Committee feels it is imperative to allow the EEL Program to go forward as this is a critical time for land acquisitions.

*February 8, 2007*

*Page 5 of 5*

*Approved February 27, 2008*