

AGENDA
BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
JANUARY 27, 2009
Substitute Page

Item 1 Minutes

Submittal of the Minutes from the October 28, 2008, November 20, 2008 and December 9, 2008 Cabinet Meetings.

(See Attachment 1, Pages 1-53)

RECOMMEND APPROVAL

Substitute Item 2 Harmon Life Estate Conveyance/Determination/Fakahatchee Strand Preserve State Park

REQUEST: Consideration of a request to (1) determine, pursuant to section 18-2.018(3)(b)1.c., F.A.C., that conveyance of a life estate for the life of Donald L. Harmon on a state-owned one-acre parcel, more or less, located within Fakahatchee Strand Preserve State Park, provides a greater benefit to the public than the life estate's retention in Board of Trustees' ownership; and (2) approve a contract for sale and purchase of the life estate for the life of Donald L. Harmon.

COUNTY: Collier

APPLICANT: Donald L. Harmon

LOCATION: Section 12, Township 52 South, Range 29 East

CONSIDERATION: \$20,700 to be deposited in Florida Forever Trust Fund for the life estate and the donation of three parcels which total approximately five acres within Fakahatchee Strand Preserve State Park

		APPRAISED BY		
		Devos	APPROVED	CLOSING
<u>PARCEL</u>	<u>ACRES</u>	<u>(08/13/08)</u>	<u>VALUE *</u>	<u>DATE</u>
BOT	1	\$20,700	\$20,700	120 days after BOT approval

*Life Estate value

STAFF REMARKS: The subject one-acre parcel, more or less, is located within Fakahatchee Strand Preserve State Park (Park) and is part of 115 acres purchased, by the Board of Trustees, in February 2002 from Harmon Bros. Rock Co., Inc. The 115 acres were purchased with Preservation 2000 funds. The Park is managed by the Department of Environmental Protection (DEP), Division of Recreation and Parks (DRP).

History

Mr. Harmon sold the 115 acres to the Board of Trustees in February 2002, and it was agreed during negotiations with DEP, that he would be allowed to reserve for a period of seven years from the date of the warranty deed, a one-acre parcel of land together with an ingress and egress

Substitute Item 2, cont.

easement in lieu of a life estate. The deed reservation provides that at the end of this seven year period at midnight on February 27, 2009, Grantor's interest in the reserved property and the easement for ingress and egress thereto shall terminate. This acquisition and seven-year deed reservation were approved by the Board of Trustees on June 12, 2001. Mr. Harmon currently resides on this one-acre parcel in his mobile home.

Current Request

Mr. Harmon is requesting a life estate for his life together with a nonexclusive ingress and egress easement to the one-acre upland parcel. Mr. Harmon has agreed to donate three parcels located within the Park to the Board of Trustees, which total approximately five acres, in addition to paying the appraised value for the life estate. The donated parcels are pristine strand swamp lands. DRP supports this request and the life estate will be conveyed subject to the applicable standard conservation restrictions which have been reviewed and approved by DRP. In addition, the contract requires that Mr. Harmon remove two fuel tanks located on the parcel prior to closing and that Mr. Harmon's sole heir shall remove the mobile home and detached carport, backhoe, trailers, and any other personal items on the property within 90 days of his death. Mr. Harmon's son is his sole heir and he has signed the contract agreeing to these conditions.

Public Interest Evaluation

Pursuant to section 18-2.018(3)(b)1.c., F.A.C., the Board of Trustees may determine that the conveyance of the parcel by sale, gift or exchange provides a greater benefit to the public than its retention in state ownership. DEP staff recommends the Board of Trustees find that the conveyance of the life estate provides a greater benefit to the public than the life estate's retention in Board of Trustees' ownership due to the following: (1) the Board of Trustees will receive the donation of three parcels of pristine swamp strand lands, which total five acres within the Park; (2) the less-than-fee conveyance of a life estate will encumber only one acre of Park lands which Mr. Harmon resides on and maintains through authorization by the Board of Trustees; (3) the one-acre parcel is composed of mostly mowed grass with a few oak trees. If approved, Mr. Harmon will reside on this parcel for the remainder of his life and will be required to comply with the applicable standard conservation restrictions which are within the contract and will be contained in the deed; and (4) the underlying fee will continue to be owned by the Board of Trustees until the termination of the life estate, at which time the Board of Trustees will have 100 percent ownership of the parcel.

Noticing

This life estate interest is being conveyed pursuant to section 18-2.018(3)(b)1.c., F.A.C. The noticing requirements are not applicable if the Board of Trustees determines conveyance of this interest to Mr. Harmon is a greater benefit to the public than its retention in Board of Trustees' ownership, pursuant to section 18-2.019(5)(b)4, F.A.C.

Management

The three donated parcels will be managed by DRP as an addition to the Park.

Substitute Item 2, cont.

Comprehensive Plan

A consideration on the status of the local government comprehensive plan was not made for this item. DEP has determined the disposition of state-owned lands are not subject to the local government planning process.

(See Attachment 2, Pages 1-16)

RECOMMEND APPROVAL

Item 3 City of Pahokee/Everglades Ventures Company, LLC (Everglades Adventures RV & Sailing Resort) Recommended Consolidated Intent/Lease Renewal/Fee Structure

REQUEST: Consideration of an application for (1) renewal of a five-year sovereignty submerged lands lease containing 535,309 square feet for an existing public marina; and (2) maintain the existing fee structure of six percent of the annual rental value from the wet slip rental area because the City of Pahokee is designated as a Rural Area of Critical Economic Concern.

APPLICANTS: City of Pahokee and Everglades Ventures Company, L.L.C. (d/b/a Everglades Adventures RV & Sailing Resort)
Lease No. 500224016
Application No. 50-0129049-009

LOCATION: 190 North Lake Avenue
City of Pahokee, Palm Beach County
Section 18, Township 42 South, Range 37 East
Aquatic Preserve: No
Waterbody/Classification: Lake Okeechobee, Class I
Outstanding Florida Waters: No
Designated Manatee County: Yes, without an approved manatee protection plan
Manatee Aggregation Area: No
Manatee Protection Speed Zone: No

CONSIDERATION: Six percent of the annual rental value from the wet slip rental area as approved by the Board of Trustees on May 13, 2003.

STAFF REMARKS: On May 7, 1956, the Board of Trustees issued a Use Permit to the City of Pahokee (City) for the use and control of a parcel of Lake Okeechobee bottom related to an existing breakwater, on behalf of the public, to afford protection to marine vessels for navigation, refuge, wharfage, mooring, docking, and servicing. The adjacent state-owned uplands were also leased to the City on December 15, 1986, for the purpose of developing and managing a public outdoor recreation area.

Item 3, cont.

On October 30, 2001, the City requested and obtained approval from the Board of Trustees to sublease the state-owned uplands to Everglades Ventures Company, L.L.C. (EVC) with reference to the City's plans to obtain a sovereignty submerged lands lease for the marina facility and the subsequent sublease of sovereignty submerged lands lease to EVC for operation of the marina.

On May 13, 2003, the Board of Trustees approved (1) the conversion of the Use Permit to a five-year sovereignty submerged lands lease, with a five-year renewal option subject to the Board of Trustees' approval; and (2) the modification of the fee structure to be based strictly on six percent of the annual rental value from the wet slip rental area because the City is designated as a Rural Area of Critical Economic Concern.

In September of 2004, the marina was severely damaged by hurricanes Frances and Jeanne. On May 18, 2005, the Department of Environmental Protection (DEP) issued an Environmental Resource Permit (No. 50-0129049-008) authorizing the reconstruction and reconfiguration of the facility.

On June 16, 2005, the Board of Trustees approved a lease modification to increase the preempted lease area from 401,362 square feet to 535,309 square feet, and authorized the construction of a permeable rock breakwater and fishing pier.

On May 2, 2006, the Board of Trustees approved (1) a 108-slip expansion to the existing 116-slip docking facility, thereby creating a 224-slip facility within the existing sovereignty submerged lands lease; and (2) maintaining the fee structure at six percent of the annual rental value from the wet slip rental area as approved by the Board of Trustees on May 13, 2003.

Due to occurrence of hurricanes Frances and Jeanne in 2004, the facility has not become a significant revenue generator. Also, the City is still designated as a Rural Area of Critical Economic Concern. Therefore, DEP recommends the Board of Trustees' approve the five-year lease renewal with the existing fee structure of six percent of the annual rental value from the wet slip rental area.

Comprehensive Plan

A consideration of the status of the local government comprehensive plan was not made for this item. DEP has determined that the proposed lease renewal is not subject to the local government planning process.

(See Attachment 3, Pages 1-14)

RECOMMEND APPROVAL

**Substitute Item 4 Marine Max East, Inc. Recommended Consolidated Intent/Lease
Renewal/ Modification/Easement**

REQUEST: Consideration of application for (1) renewal and modification of a 5-year sovereignty submerged lands lease to (a) reflect a change in upland ownership; and (b) increase the preempted area from 9,205 square feet to 191,341 square feet for a 50-slip commercial docking facility; (2) a 25-year private access channel easement preempting 32,386 square feet; and (3) authorization for the severance of 27,351 cubic yards of sovereignty material.

APPLICANT: Marine Max East, Inc.
Lease No. 430027808
Easement No. 41113
BOT File No. 430233476
SFWMD Application No. 010608-14, Permit No. 43-00954-P

LOCATION: 2370 SW Palm City Road
Stuart, Martin County
Sections 8 and 17, Township 38 South, Range 41 East
Aquatic Preserve: No
Waterbody/Classification: South Fork St. Lucie River, Class III
Outstanding Florida Waters: No
Designated Manatee County: Yes, with an approved manatee protection plan
Manatee Aggregation Area: No
Manatee Protection Zone: Slow Speed year-round

CONSIDERATION: \$109,731.81 representing: (1) \$25,065.40 as the initial annual lease fee computed at the base rate of \$0.145554 per square foot, discounted 10 percent for participation in the Clean Marina Program; (2) \$6,627.66 as the initial 25 percent surcharge payment for the additional area; (3) \$43,850.00 representing a one-time fee for the easement value pursuant to section 18-21.011(2), F.A.C.; and (4) \$34,188.75 for the severance of sovereignty material computed at the rate of \$1.25 per cubic yard, pursuant to section 18-21.011(3)(a)(3), F.A.C. Sales tax and county discretionary sales surtax will be assessed pursuant to sections 212.031 and 212.054, F.S., if applicable. The lease fee may be adjusted based on six percent of the annual rental value pursuant to section 18-21.011(1)(a)1, F.A.C.

STAFF REMARKS: In accordance with rules adopted pursuant to sections 373.427(2) and 253.77(2), F.S., this "Recommended Consolidated Notice" contains a recommendation for issuance of both the permit required under part IV of chapter 373, F.S., and the authorization to use sovereignty submerged lands under chapter(s) 253 (and 258), F.S. The Board of Trustees is requested to act on those aspects of the activity which require authorization to use sovereignty submerged lands.

Project Synopsis

The applicant requests a 5-year lease renewal and modification to include a total of 191,341 square feet to accommodate a 50-slip docking facility serving as a floating showroom for Marine Max boat sales and as commercial marina. The docking facility will accommodate vessels

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Substitute Item 4, cont.

ranging from 50 to 80 feet in length, with drafts no deeper than 6 feet. The applicant also requests a 25-year private easement for an access channel to the proposed facility.

Background

On August 12, 1997, the South Florida Water Management District (District) issued Permit No. 43-00954-P, authorizing construction of a surface water management system serving a 5.44-acre commercial development, including authorization of a sovereign submerged lands lease (Lease No. 430027808) for a 4-slip docking facility, a travel lift, and a boat ramp and the removal of 1,305 cubic yards of submerged bottoms. No impacts to wetlands were identified in that permit.

On August 12, 1997, the Department of Environmental Protection (DEP) issued a five-year sovereignty submerged lands lease containing 9,205 square feet for the 4-slip docking facility. DEP subsequently renewed the lease under delegation of authority.

On October 9, 2008, the District's Governing Board approved the Recommended Consolidated Notice of Intent to Issue the environmental resource permit and sovereignty submerged lands authorization for this project, under application number 010608-14, subject to the Board of Trustees' approval.

Project Description

The applicant proposes to expand the existing commercial docking facility from 4 slips to 50 slips and dredge to achieve depths navigable for vessels ranging from 50 to 80 feet in length, with drafts no deeper than 6 feet. The proposed slips will serve as a commercial marina/floating showroom for Marine Max boat sales.

An access channel is proposed from the main channel of the South Fork of the St. Lucie River to the facility. The existing boat ramp and travel lift will be available for the rental slips and for maintenance and sales activities. Handrails and "No Mooring" signs will be installed along the perimeter of the facility to prevent mooring outside of the designated slips. Installation of four navigation markers is also proposed to demarcate the access channel.

Approximately 27,351 cubic yards of sovereignty material is proposed to be dredged from 223,727 square feet (5.14 acres) of the South Fork of the St. Lucie River using conventional dredging methods (mechanical excavator mounted on a barge). Dredging will occur within both the lease (mooring) and easement (access channel) areas.

The project is expected to have minimal adverse impacts to natural resources. Dredging to a depth of -7 feet mean low water (MLW) is planned to achieve navigable water depths. The current depths in the project footprint range from approximately -3 feet MLW to -6 feet MLW. This dredging is proposed to occur in areas that do not contain submerged aquatic vegetation or any other significant benthic resources. To minimize potential adverse resource impacts, the proposed docking facility was reconfigured to avoid dredging in areas containing significant benthic resources (polychaetes and bivalves).

Substitute Item 4, cont.

Private Easement

A private easement is required for the proposed access channel. DEP's Bureau of Appraisal hired an independent appraiser to conduct an appraisal to determine the value of the easement and the enhanced value of the easement. The applicant paid for the appraisal. DEP's Bureau of Appraisal accepted the conclusion of \$32,000 for the easement value with \$118,500 as the enhanced value. DEP recommends that the Board of Trustees assess 10 percent of the enhanced value and 100 percent of the easement value for a total of \$43,850.00.

Noticing

The project was noticed pursuant to section 18-21.004(1)(m), F.A.C. The District received correspondence from Circle Bay Yacht Club Condo Association, Inc. (Condo Association) indicating that it has concerns with this application. The Condo Association is concerned that the proposed dredging activities may result in sediment deposition in the Condo Association's access channel. District staff contacted the Condo Association to discuss the concerns, and a meeting was held with the applicant and the Condo Association. During this meeting, the applicant agreed to address the concerns expressed by the Condo Association. Through correspondence between the applicant and the Condo Association, the Condo Association's concerns have been addressed. In addition, the applicant has proposed two additional turbidity monitoring stations in the vicinity of Circle Bay Yacht Club.

Permit Summary

The permit does not authorize sewage pumpout facilities and prohibits fueling facilities and liveaboards.

Commenting Agency

The recommendations of the Florida Fish and Wildlife Conservation Commission (FWC) regarding protection of manatees have been addressed in the permit. Martin County is a designated manatee county with an approved manatee protection plan (MPP) and a boat facility siting plan (BFSP). FWC stated the proposed project is consistent with the MPP and BFSP.

Comprehensive Plan

A local government comprehensive plan has been adopted for this area pursuant to section 163.3167, F.S. The Department of Community Affairs determined that the plan is in compliance. The proposed action is consistent with the adopted plan according to a letter received from Martin County.

(See Attachment 4, Pages 1-37)

**RECOMMEND APPROVAL SUBJECT TO THE SPECIAL APPROVAL
CONDITIONS, THE SPECIAL LEASE CONDITIONS, AND
PAYMENT OF \$109,731.81**

Substitute Item 5 Prom Queen-II, LLC (Grand Marlin Marina) Recommended Consolidated Intent/Lease Modification/Consent of Use

REQUEST: Consideration of an application for (1) a modification of an existing ten-year sovereignty submerged lands lease to (a) reflect a change in ownership; and (b) increase the preempted area from 74,048 square feet to 236,102 square feet for a 101-slip commercial docking facility; (2) authorization for the severance of 6,900 cubic yards of sovereignty material; and (3) issuance of a consent of use for the placement of approximately 11 cubic yards of riprap.

APPLICANT: Prom Queen-II, LLC (d/b/a Grand Marlin Marina)
Lease No. 170239551
Application No. 17-0082053-004-DF

LOCATION: 400 Pensacola Beach Blvd.
Pensacola Beach, Escambia County
Section 00, Township 03 South, Range 29 West
Aquatic Preserve: No
Waterbody/Classification: Santa Rosa Sound, Class III
Shellfish Harvesting Area: Prohibited
Outstanding Florida Waters: Yes
Designated Manatee County: No
Manatee Aggregation Area: No
Manatee Protection Speeding Zone: No

CONSIDERATION: \$45,477.81 representing: (1) \$24,055.91 as the initial annual lease fee computed at the base rate of \$0.145554 per square foot, discounted 30 percent because 90 percent of the slips are open to the public for rent on a first-come, first-served basis; (2) \$5,896.90 as the initial 25 percent surcharge payment on the additional area; and (3) \$15,525 for the severance sovereignty material computed at the rate of \$2.25 per cubic yard pursuant to section 18-21.011(3)(a)2, F.A.C. Sales tax and county discretionary sales surtax will be assessed pursuant to sections 212.031 and 212.054, F.S., if applicable. The lease fee may be adjusted based on six percent of the annual income pursuant to section 18-21.011(1)(a)l, F.A.C.

STAFF REMARKS: In accordance with rules adopted pursuant to sections 373.427(2) and 253.77(2), F.S., the attached "Recommended Consolidated Notice" contains a recommendation for issuance of both the permit required under part IV of chapter 373, F.S., and the authorization to use sovereignty submerged lands under chapter 253, F.S. The Board of Trustees is requested to act on those aspects of the activity that require authorization to use sovereignty submerged lands.

Background

On March 17, 1981, the Board of Trustees approved issuance of a five-year sovereignty submerged lands lease, for a 49-slip docking facility containing 79,650 square feet, to a former lessee (Hosner Enterprises, Inc.). The lease has subsequently been renewed and modified under delegation of authority.

Substitute Item 5, cont.

Project Detail

The proposed lease modification would authorize a ten-year sovereignty submerged lands lease for a 101-slip docking facility (65 permanent, 34 transient, and 2 transient fueling slips), preempting 236,102 square feet, to be used in conjunction with a restaurant and bar, a ships store, and marina and yacht brokerage offices. The docking facility will accommodate vessels ranging in length from 40 to 60 feet with drafts of 2 to 6 feet in the permanent slips. Vessels with lengths longer than 60 feet may be accommodated in the transient mooring areas and at the ends of the two "T" docks if the vessel owner wishes to lease two slips. Transient mooring will be located on the outside of the marina on the northern and eastern floating docks.

Ninety percent of all the slips will be maintained on an open to the public, first-come, first-served basis, pursuant to section 18-21.003(25), F.A.C. This requirement has been included as a special lease condition.

The applicant is proposing to dredge 6,900 cubic yards of sovereignty material from the nearshore area and from an area located on the southern side of the marina to provide adequate water depth (-7.6 feet mean low water) for the vessels proposed to be moored at the modified docking facility. All dredging on sovereignty submerged lands will occur within the proposed lease area. The spoil material will be placed in an upland disposal area located on the southern two thirds of the property. As the area has numerous seagrass beds, there will be no return flow from the spoil cell. In order to prevent the nearshore area from shoaling in, two low profile sheet pile and riprap breakwaters (one 150-foot long and one 120-foot long) will be constructed along the northern and southern sides of the marina. The riprap will be approximately 11 cubic yards.

Noticing

The project was noticed to four property owners, and no objections were received during the noticing period.

Permit Summary

The Department of Environmental Protection's wetland resource permit requires sewage pumpout facilities, authorizes fueling facilities, and prohibits liveboards.

Commenting Agencies

The recommendations of the Florida Fish and Wildlife Conservation Commission (FWC) regarding protection of manatees have been addressed in the permit and as special lease conditions. The Division of Historical Resources recommended the permit include a special condition regarding fortuitous finds or unexpected discoveries, due to a historic shipwreck recorded to the south of the project site.

The applicant obtained an upland development order from the Santa Rosa Island Authority on April 9, 2008. In addition, the Santa Rosa Island Authority has required the applicant to place signs on the northeastern, northwestern and southern side of the facility that warns of a shoal and to protect seagrass beds. The Santa Rosa Island Authority has required the applicant to place aids to navigation in accordance with County and U. S. Coast Guard requirements along the northwestern portion of the facility to indicate the entrance of the facility. These have been addressed as special lease conditions.

Substitute Item 5, cont.

Comprehensive Plan

A local government comprehensive plan has been adopted for this area pursuant to section 163.3167, F.S. The Department of Community Affairs determined that the plan is in compliance. The proposed action is consistent with the adopted plan according to a letter received from Escambia County.

(See Attachment 5, Pages 1-42)

**RECOMMEND APPROVAL SUBJECT TO THE SPECIAL APPROVAL CONDITION,
SPECIAL LEASE CONDITIONS, AND PAYMENT OF \$45,477.81**

**Substitute Item 6 Ozean Development, LLC (Aurora Yacht Club) Recommended
Consolidated Intent/Lease Modification**

REQUEST: Consideration of an application for a modification of an existing ten-year sovereignty submerged lands lease to (1) combine three existing leases into one new lease; (2) change the use of the docking facilities from commercial to a private yacht club; (3) reduce the term of the lease to five years; and (4) increase the preempted area from 141,208 square feet to 412,396 square feet for a 150-slip docking facility.

APPLICANT: Ozean Development, LLC (d/b/a Aurora Yacht Club)
Lease No. 460488321
Application No. 46-0282112-001-DF

LOCATION: 1345 Miracle Strip Parkway
Okaloosa Island, Okaloosa County
Section 00, Township 02 South, Range 24 West
Aquatic Preserve: No
Waterbody/Classification: Choctawhatchee Bay, Class III
Outstanding Florida Waters: Yes
Designated Manatee County: No
Manatee Aggregation Area: No
Manatee Protection Speeding Zone: No

CONSIDERATION: \$69,894.01 representing: (1) \$60,025.89 as the initial annual lease fee computed at the base rate of \$0.145554 per square foot; and (2) \$9,868.12 as the 25 percent surcharge payment on the additional area. Sales tax and county discretionary sales surtax will be assessed pursuant to sections 212.031 and 212.054, F.S., if applicable. The lease fee may be adjusted based on six percent of the annual income pursuant to section 18-21.011(1)(a)l, F.A.C.

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Substitute Item 6, cont.

STAFF REMARKS: In accordance with rules adopted pursuant to sections 373.427(2) and 253.77(2), F.S., the attached "Recommended Consolidated Notice" contains a recommendation for issuance of both the permit required under part IV of chapter 373, F.S., and the authorization to use sovereignty submerged lands under chapter 253, F.S. The Board of Trustees is requested to act on those aspects of the activity that require authorization to use sovereignty submerged lands.

Background

The site consists of three parcels of property with a single owner, which currently has three separate sovereignty submerged lands leases.

The easternmost facility, Lease No. 460488321, has a 10-year sovereignty submerged lands lease for a 94-slip commercial docking facility preempting 119,044 square feet. A 39-slip marina was originally located within an upland cut. On June 7, 1983, the Board of Trustees approved a 55-slip marina expansion preempting 115,699 square feet of sovereignty submerged lands. The lease has subsequently been renewed and modified under delegation of authority. This marina is currently closed awaiting demolition. A permit has been issued under file number 46-02356602-001-DF to fill the upland basin located on this property. Lease No. 460488321 will be used as the lease number for the entire project.

The middle parcel, Lease No. 461091621, has a 10-year lease, for a 27-slip commercial docking facility preempting 20,478 square feet. On September 23, 1986, the Board of Trustees approved a 27-slip commercial docking facility preempting 20,478 square feet of sovereignty submerged lands. The lease has subsequently been renewed under delegation of authority. This marina is currently closed awaiting demolition. This lease will be cancelled prior to issuance of the modified lease.

The westernmost parcel, Lease No. 460024021, has a five-year lease for a fishing pier preempting 1,686 square feet. This pier is currently closed awaiting demolition. The pier was originally grandfathered under GSR No. 460046 and was brought under lease in 2003. This lease will be cancelled prior to issuance of the modified lease.

The applicant has obtained a development order from Okaloosa County for the construction of two condominium buildings containing a total of 286 residential units. Due to the decline in sales for condominium units, the applicant has redesigned the project to allow for a hotel and yacht club on the upland. The applicant has not yet received the modified development order from Okaloosa County. A special approval condition has been added that requires the applicant to provide the Department of Environmental Protection (DEP) a copy of the modified development order prior to issuance of the lease modification.

The applicant initially applied for two condominiums to be constructed on the upland and received a stormwater general permit under rule 62-25, F.A.C., for the construction of the condominiums. The applicant did not apply to modify the stormwater general permit while rule

Substitute Item 6, cont.

62-25, F.A.C., was still in effect. As such, the applicant needs a new individual environmental resource permit under rule 62-346, F.A.C., for the proposed change in upland usage, which was applied for on November 10, 2008.

Project Detail

The applicant proposes to remove the existing structures and construct a 150-slip docking facility (113 permanent, 24 flexible, 8 transient, and 5 fueling). The existing combined lease areas preempt 141,208 square feet. The proposed expansion is 271,188 square feet, for a new total of 412,396 square feet. The docking facility will accommodate vessels from 40 to 65 feet in length with drafts of 1.5 to 6 feet, and will be used in conjunction with a 450-room hotel and private yacht club.

The applicant proposes to rent 20 percent of the slips (23 slips) to the general public on a first-come, first-served basis, pursuant to section 18-21.003(25), F.A.C. This requirement has been included as a special lease condition. The remaining 80 percent of the slips (127 slips) will be available for long-term use and will be associated with membership in the Aurora Yacht Club.

There is a small patch of seagrass beds located adjacent to the southwest corner of the lease area. The structure has been designed to minimize impacts to the seagrass beds. The applicant proposes to place markers to indicate the location of the seagrass beds. This requirement has been included as a special lease condition.

The applicant proposes a four-foot-wide pedestrian access easement that runs along the western boundary of the property. This easement will provide the general public access from Highway 98 to a 10-foot-wide upland boardwalk that runs along the entire length of the shoreline.

Noticing

The project was noticed pursuant to section 18-21.004(1)(m), F.A.C., and two letters of objection were received from Gulf Islands National Seashore (GINS), the adjacent property owner. The first letter expressed concerns that the proposed wave attenuator, located under the dock, could cause erosion. DEP's hydrographic engineer concluded that there will be a gap of 50 feet between the mean high water line and the first breakwater panel and therefore the wave energy will be suspended and will allow transportation of the sediment along the shoreline. The review concluded that the wave attenuator will not interrupt the sediment transport along the shoreline. The other concern expressed in the first letter concerned lighting which might disorient hatching sea turtles. The dock incorporates shielded low pressure sodium lights, which are turtle friendly. The second letter from GINS expressed concerns about the location of the dock and fueling pier in relation to the southern edge of the Intracoastal Waterway. DEP received correspondence from GINS which stated its concerns had satisfactorily been addressed by the applicant.

Permit Summary

DEP's wetland resource permit requires sewage pumpout facilities, authorizes fueling facilities, and prohibits liveaboards. The fueling and sewage pumpout facilities will be open to the general public.

Substitute Item 6, cont.

Commenting Agencies

The recommendations of the Florida Fish and Wildlife Conservation Commission (FWC) regarding protection of manatees have been addressed in the permit and as special lease conditions.

The application was sent to FWC's Division of Law Enforcement (DLE) for review. DLE stated in a letter that the applicant needed to relocate two navigation channel markers and place markers indicating the location of seagrass beds. A special lease condition addresses the location of seagrass markers. The docking facility was reconfigured which eliminated the need to relocate the two navigation channel markers.

The U. S. Coast Guard (USCG) has expressed concerns about (1) the location of the "F" dock, with associated fueling facilities, in relation to the southern edge of the Intracoastal Waterway channel; and (2) the proposed relocation of the two navigation cans. As such, the applicant reconfigured the docking facility to reduce the length of the main access dock from 1,137 feet to 1,016 feet in length. In addition, the fueling facilities have been moved from the waterward side of the "F" dock to the western side of the "E" dock. DEP received additional correspondence from the USCG requesting a 30-day time extension to review the proposed reconfiguration. A special approval condition has been included requiring the applicant to provide documentation to DEP from the USCG endorsing the proposed reconfiguration prior to issuance of the lease modification.

The Division of Historical Resources recommended the permit include a special condition regarding fortuitous finds or unexpected discoveries, due to the potential disturbance of a prehistoric midden during construction.

Comprehensive Plan

A local government comprehensive plan has been adopted for this area pursuant to section 163.3167, F.S. The Department of Community Affairs determined that the plan is in compliance. The proposed action is consistent with the adopted plan according to a letter received from Okaloosa County.

(See Attachment 6, Pages 1-40)

**RECOMMEND APPROVAL SUBJECT TO THE SPECIAL APPROVAL CONDITION,
SPECIAL LEASE CONDITIONS, AND PAYMENT OF \$69,894.01**