



**ENVIRONMENTALLY ENDANGERED LANDS (EEL) PROGRAM
PROCEDURES COMMITTEE (PC) MEETING
November 18, 2010
Attendance List**

PROCEDURES COMMITTEE MEMBERS

Priscilla Griffith
Pat Pasley
Leeanne Saylor
Diane Stees
Kim Zarillo

EEL PROGRAM STAFF

Laura Clark
Mike Knight

GUESTS

Linda Mannier, District 3 Commission Office
Paul Schmalzer, SMC

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

*November 18, 2010
Approved January 20, 2011*



**ENVIRONMENTALLY ENDANGERED LANDS (EEL) PROGRAM
PROCEDURES COMMITTEE (PC)
November 18, 2010
Meeting Minutes**

CALL TO ORDER:

Priscilla Griffith, Vice-Chairman, called the meeting to order as Rocky Randels had provided advance notice he was unable to attend.

PUBLIC COMMENT:

None.

MINUTES:

The September 16, 2010 minutes were presented for approval.

MOTION ONE:

Kim Zarillo moved to approve the minutes as presented.

Additional Discussion

Paul Schmalzer noted that the date on the first page of the minutes was incorrectly listed as September 19, 2010. This error will be corrected.

Kim moved to approve the September 16, 2010 minutes as amended

Pat Pasley seconded the motion.

The motion carried unanimously.

AGENDA ITEMS:

Land Acquisition Manual Revisions: SMC Membership and Selection Criteria

Mike explained that on October 26, 2010, language revisions based on information received from the Board of County Commissioners on October 20, 2009, and which had been approved by the Procedures Committee (PC) and Selection and Management Committee (SMC), was presented to the Board of County Commissioners (Board) for their consideration.

He stated that the Board had tabled the item, primarily due to a concern that the Board had stated that in their previous direction of October, 2009 they wanted a member from the Tourism Development Council (TDC) or the Economic Development Commission (EDC) added as a member to the SMC, to represent eco-tourism; but, the recommended revisions approved by the PC and the SMC added a voting seat for the EDC/TDC representative to the Recreation and Education Advisory Committee (REAC), not the SMC.

Mike explained that there had also been some confusion regarding the Board's direction on October 26, 2010 and staff had been in discussions with Commissioner Fisher to obtain clarification of the details.

A copy of the revised Clerk's Memo from the October 26, 2010 Board meeting was reviewed and discussed. This document indicates that the item was tabled to a future meeting and that staff was directed to add someone from the TDC or EDC to both the SMC and the REAC committees.

Mike stated that staff would be presenting new SMC Membership Criteria language, which was based on the information in the Clerk's Memo, and which had been reviewed, revised, and approved by the SMC on November 16th, for the PC to consider. He also noted that the SMC had reviewed, revised, and approved additional draft language presented by staff related to adding an eleventh member to the REAC committee, but there was no requirement for the PC to approve the REAC language as the guidelines for the REAC committee are in the Sanctuary Management Manual (SMM), and revisions to the SMM require approval from the SMC only.

Mike explained that it was anticipated that the TDC and EDC will provide a few names of people who have indicated a desire to serve. One new SMC appointee would be chosen from the nominees during a Board ranking process, and one new REAC appointee would be chosen by the current Board Chairman.

Diane Stees asked if anyone had been in contact with the TDC or EDC regarding their participation.

Mike said that he had conversations with both groups when the Committees first began their consideration of the LAM revisions and that the EDC had expressed their understanding that they really weren't involved with eco-tourism, but he believed the Board's direction was pretty clear. He explained that he would be back in touch with both groups in the near future.

Diane requested information on which parts of the TDC relate to eco-tourism, and she asked if there was any confirmation that the TDC nominee would be knowledgeable of eco-tourism.

Mike said that it was his understanding that the Board had not indicated the need for any specific TDC/EDC criteria other than an appointee with eco-tourism in mind, but that presumably the nominees would be connected with eco-tourism at some level.

Diane asked for information on EDC/TDC membership requirements.

Mike said that he believed that the TDC has State rules and he thought that only certain people could be appointed, but that staff did not have information on EDC membership requirements. He said that a question had come up at the SMC meeting regarding the possibility of an SMC member participating with the TDC, but that it was believed that would not be feasible because of the TDC membership requirements.

Diane asked for clarification of the membership requirements of both groups. She stated that one of the SMC requirements is the expectation of a long term of service.

Mike explained that the expectation of a long term of SMC service was included in the documents being reviewed.

Diane asked if it was possible that the same person could be appointed to both committees.

Mike explained that there had not been any discussion on the issue, but that one of the current SMC members also serves on the PC, so he was not aware of anything that would prevent that.

Leeanne Saylor asked if staff would research what constitutes how someone becomes a member of the EDC/TDC, because, although she did not know a great deal about the organizations, it was her understanding that if a company contributed \$10,000 to the EDC, they got a seat on the EDC Board, and that it might not be subject to government organizational guidelines.

Mike said that what Leeanne had mentioned might be possible, but staff was not familiar with their guidelines.

Diane stated it was her understanding that there were corporate sponsored seats on the EDC, but she did not know about TDC. She stated that she would like to learn more about the organizations and asked for clarification of whether the EDC/TDC appointees would be voting members of the SMC and REAC.

Kim Zarillo confirmed that additional the SMC and REAC members would have voting rights.

Diane asked if their voting rights would be based on the interest of the EEL Program's mission or the organizations that the members represented.

Pat Pasley stated that she watched the Board meeting and it was her opinion that the Board had stated that the Committees had actually tightened the SMC membership criteria, rather than expanding it, and that what the Board wanted was the opportunity for input so that if there were two properties for sale, a member of the TDC or EDC might be able to give their opinion as to whether or not one of them would be more valuable for tourism development.

Leeanne asked if Pat was referring to economic development as opposed to conservation.

Pat said that was correct.

Diane expressed her opinion that consideration of economic development as opposed to conservation didn't make sense if you considered why the EEL Program was founded.

Diane stated that if the Program didn't acquire and manage the lands property, there wouldn't be wildlife to help bring the tourists here in the first place.

Paul Schmalzer and Priscilla Griffith agreed.

Leeanne stated that she didn't know if eco-tourism was a primary interest of the EDC.

Kim said that historically, the EDC has been a champion of the EEL Program because quality of life issues are important considerations when bringing in industry.

Leeanne ask if consideration should be given to requesting that the agencies nominate someone who is involved in eco-tourism.

Diane asked if Leeanne was suggesting criteria for the TDC/EDC member.

Pat said that she didn't see the point because it was only one voting seat and she didn't think it was a big deal.

Diane asked if there was any potential for conflict of interest issues.

Paul said that if an individual had a conflict of interest on an issue, they had to recuse themselves from the vote on that issue.

Leeanne said she agreed; although people have hidden agendas all the time. She said that before a final decision was made, she would like to know the criteria for being on the TDC/EDC because they had a fiduciary responsibility to the Committees that they are serving on to safeguard them and to at least become more knowledgeable as to the purpose of the organizations they were considering working with, and how the Program can be more open in working with them.

Mike stated that his only concern would be if lack of that information would prevent the PC from moving forward today with consideration of the draft language. He informed the group that he had asked a staff member to find answers to some of their questions during the meeting.

Pat provided the names of the current members of the TDC Board of Directors (Bob Baugher, Robin Fisher, Walt Johnson, Giles Malone, Randy O'Brien, Jim Ridenour, Laurilee Thompson, Kimberly Tsmoutales, Milo Zonka).

Pat said that her understanding of the Board's discussion was that they wanted someone who could give another opinion, other than a scientific vote.

Leeanne said that she was not saying that an appointee from TDC/EDC would be a bad thing; she just wanted to understand things a little more.

Pat provided the names of the current EDC County Commission Representatives (Robin Fisher, Tony Masone, Matt Nye, Dr. M.J. Solieau, Larry Weber).

Diane asked whether the nominees were supposed to be from members of the TDC/EDC Boards or just any member. She stated that the reason she had asked about conflict of interest was she didn't want to do anything that could set the County up for a lawsuit if they have someone who represents a company sitting on the SMC making decisions about buying land or making decisions to sway against buying something, especially when some of the acquisitions have funding partners like the State of Florida or the US Air Force. She said she just wanted to know if it was legally appropriate.

Leeanne stated that she didn't want anyone to misunderstand her statements. She said she was neutral and she just wanted to become more educated regarding the topic.

Diane stated that it was her feeling that if the TDC/EDC member did not have to meet any of the normal SMC criteria, the group at least needed to find out a little bit about what it takes to be a member of those organizations.

Mike explained he was having a staff member research the topic during the meeting. He said his understanding of the Board's reasoning for having a TDC/EDC person on the SMC was that if you have two properties the SMC feels are equal in their conservation value, which one is better for eco-tourism might come into play, which would be a rare circumstance in his opinion, but those issues do come up.

Diane said that Mike's statement included the assumption that the person should know enough about eco-tourism to make such a determination between properties, and yet there was no qualification of a requirement for that knowledge.

Pat said that they didn't want a scientific opinion.

Diane clarified that she was not saying scientific and that knowledge of eco-tourism is not necessarily scientific knowledge.

Priscilla said that she had heard one or two names from the lists that she believed would understand the Program, but they didn't know who they might get, or what their beliefs would be.

Kim stated that it is her opinion that some of the Commissioners may not be aligned ideologically with the original referendum and they would do whatever they wanted.

Paul stated that he believed the argument before the SMC was, if the Committees did not do what the Board wanted, the alternatives might be worse. He said the appointments could be a negative, or they could be a positive, and the SMC had not said that anyone from TDC or EDC would be a disaster.

Pat stated that she felt the group was assuming a lot and making assumptions before anything ever happened.

Diane stated that the discussion was about looking at all the angles and doing their research.

Pat stated that it was her opinion that having a person who was more flexible would be a good thing and that she believed it could bring in tourism and promote the EEL Program more than hurt it.

Kim stated that Pat could make a motion if she wanted to.

Paul suggested the group review the specific language.

Mike said that the only things different that were from the last approval on October 19th were highlighted in yellow.

He explained:

- SMC membership changes from seven (7) to eight (8) total members.
- The first section points out that there are seven (7) voting SMC seats designated for qualified applicants, and one (1) additional voting seat, from the TDC or EDC, for the purpose of eco-tourism.
- The Board of County Commissioners will review and rank the TDC/EDC nominees, and the nominee with the highest score will be appointed to the SMC.
- The individual chosen from TDC or EDC does not have to go through the qualifications filter for the other SMC members.
- The revised language does include references to the TDC/EDC information regarding the willingness to serve as a volunteer and request to make a long term commitment.
- The number of votes required for a simple majority changes from four (4) to five (5).
- The number of votes required for an extraordinary (supermajority) vote changes from five (5) to six (6).

Mike mentioned that all Citizen Advisory Committee members receive information on the guidelines for conflicts of interest when they join the committees.

Clarification was provided that there are also State guidelines regarding conflicts of interest within the Florida State Statutes.

Priscilla noted the need for one minor correction within the first line of 2-17 6c: "If replacement of EEL Selection and Management Committee members is required..."

The group concurred and clarified that they did not feel the revision changed the intent of the language.

Mike stated that he was currently researching the information that the PC had requested and he expected clarification at any moment. He explained that the PC could delay their motion on the issue until the information was received, if they chose to do so.

Leeanne stated that it was not her intent to be a fly in the ointment and delay the process.

Mike clarified that staff anticipated providing the new SMC Membership Criteria language to the Board for their review at the December 7th meeting and the option for reappointing the standing SMC members on December 21st.

Diane stated that she felt the group's questions had been fair.

Mike agreed and he asked if the group would like to move on to the next item on the agenda while staff researched the information that had been requested.

Priscilla suggested that the PC could complete the discussion on this item later in the meeting.

Additional Discussion

Mike explained that he had one other issue that he would like to bring up.

He stated that had been involved in a discussion the day before, regarding property negotiations and he had received an e-mail earlier in the day from Stockton Whitten that seemed to indicate that something might be coming back to the SMC and PC to consider related to property negotiations. He added that they could discuss the item later in the meeting.

Lessons Learned / Future Visioning Meeting Discussion

Mike reminded the group that during the September 16th PC meeting, a suggestion had been received for consideration of a retreat, workshop, or some other type gathering for the purpose of discussing lessons learned during the first twenty years of the EEL Program. He explained that the suggestion had been brought forward to the SMC during their meeting earlier in the week, and that the SMC had suggested broadening the focus to a meeting related to envisioning the Program's future. Mike explained that consideration was being given to a meeting which would include all three of the EEL Program's Citizen Advisory Committees (SMC, PC, and REAC).

Kim added that the SMC had suggested that they might like to have a preliminary meeting for a review of management goals and other objectives. She also explained that she had provided clarification to the SMC that one of the duties of the PC is to help with finding funding sources and she mentioned a few of the cooperative agreements that are being considered.

Mike stated that if everyone was agreeable, staff would refer to the meeting as a Visioning Workshop and he reminded everyone that the workshop would be a public meeting.

Leeanne stated her understanding of the workshop discussion plans: how did we get here and where do we go now?

Kim agreed.

Leeanne stated that she felt information and discussion of that type would be very helpful to her, and to other new members of the Committees.

SMC Membership Criteria – Additional Discussion

Mike explained that staff had provided him with the results of their research on the PC's questions during the meeting.

He provided the following information on the TDC County Commission Representatives:

- Members are appointed by the Board of County Commissioners
- There are nine (9) total members
 - Three (3) non-owner hotel operators
 - Three (3) hotel owners
 - One (1) At-Large elected County Official
 - One (1) At-Large elected official from the largest municipality
 - One (1) current County Commissioner

Paul stated that Laurilee Thompson was on the TDC, but she did not seem to fit into one of those categories.

Jenny Ashbury provided clarification that the TDC representative she had spoken with had stated that the hotel category included short term rentals and that the TDC representative had indicated she would e-mail the information from their procedures manual on this topic.

Diane asked if there was a consistent length of term for the TDC members.

Jenny stated it was her understanding that there were no consistent term lengths covering all of the TDC members' appointments.

Mike provided information on the EDC:

- Must be an investor, or *ex officio* that is appointed by an Executive Committee

Diane stated she had a question about the TDC membership. She asked if there were any concerns with a potential situation if a County Commissioner was appointed to the SMC as the TDC/EDC nominee, because they would be voting on issues as an SMC member that would be presented for approval to themselves again as Commissioners.

Mike stated that he did not know the answer, although he felt that it would be rather awkward, but staff would certainly try to get those questions answered. He also said that Kim votes as part of the PC to bring items to the SMC as she sits on both of those committees.

Pat suggested consideration of taking the question to the County Attorney for clarification.

Mike stated that would be his approach. He said that he felt that the job of this committee is to go ahead with what the Board would like for them to do and let the people over staff's heads figure out if everything is going to be kosher.

Pat stated that rather than having the PC try to discuss it and figure it out, her motion would be for staff to take the item to Scott Knox and ask if there is any conflict of interest and if not, then come back to the PC.

Mike said that his preference would be for the PC to vote on the issue and they could add that contingency.

Pat agreed.

Leeanne asked if Pat wanted to make a motion.

MOTION TWO

Pat Pasley moved to approve the revised SMC Membership Criteria language as discussed, with the contingency that it goes before the County Attorney to make

sure there is no conflict of interest with anyone serving on the Selection and Management Committee.

Kim Zarillo seconded the motion.

Additional Discussion

One member stated that they would like to abstain from the vote. Clarification was provided that it is not permissible to abstain from voting unless there is a conflict of interest. The member expressed appreciation for receipt of the clarification.

The motion passed, with four members voting in the affirmative, and one vote in opposition.

Diane stated that her nay vote was primarily because there was no membership criteria for the TDC/EDC appointee. She said that she was not indicating the TDC/EDC nominees should have to meet the scientific criteria, but if they were expected to know something about eco-tourism, that should have been included.

Post Motion Language

EEL Land Acquisition Manual Revisions

As approved by the SMC on November 16, 2010.

**All changes since the last approval on October 19, 2010 are highlighted in yellow.

Approved by the SMC on November 16, 2010, and the PC on November 18, 2010.

Existing Language and Suggested Revisions.

Page 1-10, EEL Selection and Management Committee

Existing Language and Staff Suggested Revision based on October 26, 2010 Bocc Direction.

The EEL Selection and Management Committee shall serve as an expert scientific advisory committee to the Board on all issues involving the acquisition and management of environmentally endangered lands with the EEL Program protected area network in Brevard County. **Seven (7) voting seats will be designated for qualified applicants, and one (1) voting seat will be designated for an appointee recommended by the Tourism Development Council (TDC) or the Economic Development Commission (EDC) for the purposes of promoting opportunities for eco-tourism on the EEL managed nature sanctuary network.**

No further qualifications will be required for the member appointed through the TDC or EDC.

-The EEL Selection and Management Committee shall review all parcels nominated for public acquisition and make its land acquisition recommendations to the Board by an affirmative extraordinary vote of **5-6** out of **7-8** committee members.

Page 2-17, 6.a:

Existing Language and Suggested Revision:

The qualifications of all applicants or nominees responding to a call by the County Commissioners for EEL Selection and Management Committee volunteers shall be reviewed by ~~the EEL Program staff.~~ **A qualified list of applicants/nominees shall be established from the available pool of applicants/nominees. a Qualifying Committee consisting of the EEL Program Manager, the Chairman of the Procedures Committee (or their designee), and the Director of Human Resources (or their designee). Staff will present the list of all applicants/nominees to the Qualifying Committee for review and initial ranking based on their level of**

experience and education. Qualifications for EEL Selection and Management Committee members are outlined in this manual (page 2-1318).

Applicants / Nominees being recommended by the TDC and EDC will not be reviewed or ranked by the Qualifying Committee or the Procedures Committee, but will be presented to the County Commission for final ranking along with the list of science applicants/ nominees.

The method of the initial ranking by the Qualifying Committee is as follows:

1. All applicants who meet the minimum qualifications as approved by the Qualifying Committee will be assigned one hundred (100) points.
2. Five (5) additional points are assigned for each graduate degree (Masters or Doctorate) in ecosystem management, natural resources conservation, aquatic biology, field ecology, marine biology, botany, geology, hydrology, fire ecology, natural areas management, human use and recreation ~~on~~ in natural areas, science education, or natural area sanctuary design.) in a related field of expertise
3. ~~A~~and/or two (2) additional points for each year up to six (6) years for demonstrated professional expertise in biological or environmental sciences OR a closely related conservation field such as ecosystem management, natural resources conservation, aquatic biology, field ecology, marine biology, botany, geology, hydrology, fire ecology, natural areas management, human use and recreation ~~on~~ in natural areas, science education, or natural area sanctuary design.

Staff The Qualifying Committee will present the list of all applicants / nominees to the Procedures Committee including identification of those applicants / nominees that have been determined by the Qualifying Committee to be qualified. The qualified applicants will be identified by their initial ranking.

The Procedures Committee will review the list of applicants presented by the Qualifying Committee and will verify the final list of qualified applicants / nominees through a majority vote. County EEL staff will provide the list of ~~all~~ the qualified applicants / nominees in ranked order from highest to lowest to the Board for review and final ranking.

Any member of the Procedures Committee who is also a member of the Selection and Management Committee, or any Procedures Committee member who is applying for an open seat on the Selection and Management Committee, shall refrain from voting on the final list of qualified applicants, or participating as a member of the Qualifying Committee.

Page 2-17, 6.b:

The Board shall review the qualifications of the qualified nominees and give each nominee a ranking score from 1 – 3. The Assistant County Administrator (or designated county staff) shall tabulate the ranking scores. Those nominees with the highest scores shall be appointed to the EEL Selection and Management Committee, those nominees with the second highest scores shall be appointed as alternates to the EEL Selection and Management Committee. In cases of tied scores, the Board Chairperson will choose members or ~~alternatives~~ alternates by drawing names of those with tied scores from a box.

The Board will also select one (1) nominee from a list of recommended appointees provided by the TDC and EDC to fill the eighth voting seat on the committee.

Page 2-17, 6.c, Existing Language and Suggested Revision:

If replacement ~~of~~ EEL Selection and Management Committee members ~~are-is~~ required, the Board has the option to choose from the existing pool of qualified alternates (as defined by 6.b. above) or the Board can request that staff prepare a public advertisement as a call for qualified citizen volunteers (EEL Selection and Management Committee qualifications are established in the LAM on page 2-18, and will be the basis for identifying qualified applicants). The process outlined in Sections a. and -b. above shall be utilized for any new- appointments to the EEL Selection and Management Committee.

Page 2-17, 6d:

Existing Language and Suggested Revision:

~~New appointments and R~~reappointments of EEL Selection and Management Committee members ~~(as outlined in a., b. and c. above)~~ can occur at the discretion of the Board without additional review or new rankings. ~~or New appointments can be made as outlined in a., b. and c. above or can be made by selecting from the most recent (not exceeding two (2) years) pool of qualified applicants / nominees.~~ Appointment procedures will ~~follow~~ be consistent with county policies for advisory board appointments, as specified in the Uniform Advisory Board Ordinance, Ordinance 95-31.

Page 2-18 (EEL Selection and Management Committee)

Existing Language and Suggested Revision:

Membership shall consist of ~~seven-eight (87)~~ members appointed by the Board for a minimum term of two (2) years. The Board of County Commissioners shall strive to maintain a committee membership that possesses a diversity of demonstrated expertise or experience to enhance the land acquisition and management goals of the EEL Program. ~~A knowledge of other land acquisition programs in the State is highly desirable.~~ The Board may appoint members that do not reside in the respective Commissioner's District. A Chair and ~~Co~~ Vice-Chair shall be elected annually by a majority vote of the EEL Selection and Management Committee.

All EEL Selection and Management Committee members shall:

1. Have a willingness to serve in a voluntary capacity.
2. Be willing to make a long-term commitment to the EEL Selection and Management Committee.
No further qualifications will be required for the member appointed through the TDC or EDC.

All Remaining EEL Selection and Management Committee members shall:

3. Have a graduate academic degree in biological or environmental sciences OR demonstrated professional expertise (minimum six (6) years) in a closely related conservation field such as ecosystem management, natural resources conservation, aquatic biology, field ecology, marine biology, botany, geology, hydrology, fire ecology, natural areas management, human use and recreation ~~on in~~ natural areas, science education, or natural area sanctuary design.
4. ~~Have demonstrated concern for and have actively participated in environmental conservation.~~
54. Have familiarity with demonstrated knowledge of Brevard County ecosystems-, and specific knowledge of habitat types and conservation land management techniques.

EEL Program Procedures Committee Meeting

November 18, 2010

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Approved January 20, 2011

Page 5-43, Step 11A, Decision Point (Second Majority Vote)

The second majority vote requires an extraordinary majority vote (at least ~~five-six (6)~~ out of ~~seven-eight (8)~~ affirmative votes)....

Page 5-45, Step 14A, Contract Development and EEL Staff Review:

The following language will be added as #5:

5. Per County Administrative Order AO-37, all land purchases that have a contract price of \$750,000 or more are reviewed by the County's Land Acquisition Review Committee to ensure that the facts upon which the appraisals are based are accurate and that all information necessary for the Board's consideration has been provided.

Paul mentioned that there are membership criteria guidelines for the REAC, but they are not as specific as for the SMC, and relate primarily to having interest in passive recreation and education opportunities.

Several members reaffirmed their opinion that the REAC committee was a great place for a TDC/EDC voting member.

Leeanne stated that she was still curious regarding the EDC guidelines. She stated that as she understood the information Mike had provided, you have to be an investor an *ex officio* appointed by the executive committee and she asked if that was correct.

Mike agreed.

Kim said that there were various sub-committees on the EDC.

Mike mentioned that when he originally spoke to the TDC, they had indicated that they would simply be appointing one of their volunteers, so the TDC nominee wouldn't necessarily be a TDC Board member.

Diane asked if there were TDC members who were not on the TDC Board.

Kim said yes.

Diane stated her opinion that someone who was not on the TDC Board would probably receive the nomination.

Kim stated her personal belief is that you should never make a policy based on a specific person, or list of names, but on the process and the policies that are in place. She stated that the TDC mission is to promote tourism in Brevard, but the EDC has a different mission.

Leeanne expressed her appreciation to Kim for providing information related to the EDC being a champion of the quality of life issues and eco-tourism and she said she was hoping that would be the case with the new SMC member.

Priscilla mentioned that if there were no additional comments on the SMC Membership Criteria, the motion had been completed and they group could move to the next item on the agenda.

No additional comments were received on this topic.

Mike confirmed that the group had covered the Lessons Learned / Future Visioning meeting discussion. He stated that if the Committee was agreeable, he would like to share some information he had received earlier today.

Additional Discussion

Mike stated that in the past, there have been some people who felt that the EEL Program paid too much for land. He explained that the process for determining land value, which is spelled out in the Land Acquisition Manual, and which mirrors State Statutes, indicate that when you are getting two appraisals, the maximum value is determined by the amount of the higher of two appraisals, as long as the appraisals are not more than 20% divergent. If the appraisals are more than 20% divergent, a different set of rules applies.

Mike stated that historically, staff has chosen not to go above the average of the two appraisals, primarily because, according to the State Statutes, this situation requires a supermajority, or extraordinary vote, which for the Brevard County Commission means four (4) votes out of five (5).

Mike said that Stockton Whitten, Assistant County Attorney, had made a statement to the SMC that he felt the SMC should give Mike some blessing on starting negotiations at some number below the average of the two appraisals and this had been a concern for Mike because the negotiations actually do start much lower.

Mike also mentioned that in addition, a Commissioner had also expressed concern because the tax assessed value on the FP&L property which was recently submitted to the Board for consideration, but was pulled from the meeting agenda before the item was addressed, had dropped significantly between 2009 and 2010, and that the Commissioner also had a question about a potential sale listing on the property for a much lower amount. Confirmation was eventually received from FP&L that the property was listed for sale at a value higher than the price currently negotiated by TNC on behalf of the County.

Mike stated that he had received an e-mail from Stockton Whitten earlier in the day that perhaps the Committees should be thinking about a different sort of negotiation strategy. He stated that the dilemma for staff was that they are in a difficult situation related to determining maximum value if the perception that the guidelines which staff is following are too high.

Kim provided clarification that the SMC stays out of the negotiation process and that they leave that part to the experts. She expressed her opinion that she did not believe that any of the SMC members had indicated that they wanted to be involved with the negotiation process.

Mike agreed.

Kim stated that there had been some discussion about a possible acquisition workshop during the SMC meeting, and that she was not one to close the door on information, but she didn't know if a workshop would change anything.

Paul stated that he had a couple of comments that he would like to share. He stated that it was his belief that the SMC had no enthusiasm for changing the process of negotiations. He also said that there had been a Land Acquisition Workshop at the Board level just a few years ago.

Paul also clarified that the EEL Program is not the only County agency that buys land, and in fact, their process is simpler because a lot of their funding is at the Federal level, so they just pay appraised value.

Diane asked if anyone was expressing concern regarding the other agency paying full appraised value.

Kim stated that the other County departments do not seem to be held under the same microscope.

Diane said she didn't think so.

Mike said that it was his understanding that if you're going after a right-of-way, you don't really have a choice, so your options are to buy, or to condemn, and if you condemn you end up paying more than the appraised value, so you might as well offer that up front. Mike said that the EEL Program was not in that situation.

Kim expressed her feeling that some people just wanted to throw a monkey wrench in the works.

She stated that the land acquisition process, as approved in the LAM, is tighter than any other County agency, and that she would venture to say it was tighter than the State process. Mike agreed that the EEL Program's process was tighter than the State process in some ways.

Kim stated that she would not sell her house for the tax assessed value, nor would she put it on the market for the tax assessed value.

Leanne said that maybe things didn't need to be changed, or tightened, and perhaps a second look would confirm that they were doing everything they are supposed to do.

Kim agreed. She said that she did not have an objection to that, but she did not have high expectations.

Mike said he was just letting the group know that it was something that might come up.

Priscilla asked if there was any other business that needed to come before the group.

Mike explained that he would prepare a printout of the final language so that everyone could have a copy, if that was requested.

The group agreed the only change during the current meeting had been the addition of the word "of", and a hard copy printout of the final language would not be required.

ADJOURNED:

The meeting was adjourned at 3:30 PM.

NEXT MEETING:

To be determined.

SUMMARY OF MEETING MOTIONS:

- 1 Motion to approve the September 16, 2010 minutes as amended.
- 2 Motion to approve the revised SMC Membership Criteria language as discussed, with the contingency that it goes before the County Attorney to make sure there is no conflict of interest with anyone serving on the Selection and Management Committee.