

**Public Comments**

Orange County BCC Meeting 07/10/18  
Submitted for the Official Record

By: Kimberly A. Buchheit, PSM

Phone: 321-689-1057 (cell/text)

Personal email address: kimberlybuchheit@gmail.com

Date: 07/10/2018

My name is Kimberly Buchheit, 6500 Swain Road, Apopka.

Thank you for the opportunity to speak.

I was here two (2) months ago asking for greater transparency with respect to the Osceola Parkway Extension alignment decisions impacting Split Oak Forest WEA. At the BCC meeting on May 8, concerned citizens asked to be included in a “staff meeting” that was to take place with Florida Communities Trust (FCT) in Tallahassee on May 15 to discuss removing the stringent protections on Split Oak Forest. As you know, it was determined that the public was not allowed to attend since it was deemed a staff level meeting.

We, the public owners of this property organized our own staff of concerned citizens and arranged our own meetings with FCT and Florida Fish and Wildlife Conservation Commission (FWC) in Tallahassee, just 2 days after your staff meeting with them.

We quickly learned that the attendees of your staff meeting included a high level official of the Central Florida Expressway Authority (CFX), two (2) of their lawyers and an Osceola County Commissioner who also happens to be Chairman of the CFX Board.

We asked many questions and got many answers in Tallahassee. FCT clarified that **ONLY Orange County and Osceola County** are partners in the agreements with FWC and FCT. CFX is **NOT** a partner and CFX has no place in the agreements. Stated simply...CFX cannot make a request to modify the deed restrictions on Split Oak Forest WEA.

FCT informed us that the appropriate venue for our comments is through the public process that they expect you, "the partners" to lead at the local level.

Until now, there has been no follow-up on this matter in this public forum. To my knowledge, there has only been an internal memo generated by your staff and the memo has only been made available to the public upon request. Based on the discussions at the May 8 BCC meeting, we are still expecting a follow-up presentation for the Board that is properly noticed to the public. Since that has not happened, the best I can do is to come here today and enter my comments and your staff memo dated June 19, 2018 into the public record.

**If this is your idea of a transparent public process, I think we have a problem.**

We, the public owners of this property have a right to be involved before you take action to unravel the protections on this land. We ask for a true public process.

**Summary:**

Split Oak Forest WEA is publicly owned property purchased with public funds from FCT under the Preservation 2000 Program. The funding had many strings attached, including that it is protected from development, forever.

So that there is no confusion Orange County and Osceola County are “the partners” with FCT and FWC in the agreements, deed restrictions and certain conservation easements.

As “the partners” Orange County and Osceola County are the only ones that have the authority to ask FCT to modify the agreements that were put in place to protect Split Oak Forest in perpetuity.

FCT expects you to conduct a well-documented public process at the local level. You will not be able to pass the buck on this. We are counting on you to provide us with ample opportunity to participate in this important matter involving our public lands.

Me speaking to you about the need for a public process is not in and of itself a public process.

Thank You-

Kimberly A. Buchheit, PSM

“If we cannot depend on our elected officials to uphold and defend promises of perpetuity from a mere 25 years ago, how can we depend on any agreements made by these same entities for future conservation deals? NOTHING IS SAFE in the State of Florida.”

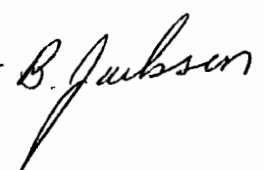
-Kimberly A. Buchheit, Land Surveyor, concerned citizen, Apopka, FL

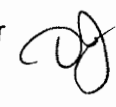


**Interoffice Memorandum  
Environmental Protection Division**

**June 19, 2018**

**To:** Mayor Teresa Jacobs  
-AND-  
Board of County Commissioners

**From:** Beth Jackson, Environmental Program Supervisor   
Environmental Protection Division  
(407) 836-1481

**Through:** David D. Jones, P.E., CEP, Manager   
Environmental Protection Division  
(407) 836-1405

**Subject:** **Split Oak Forest Wildlife Environmental Area and the Osceola Parkway Extension Project**

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This memorandum is prepared in response to the direction of the Mayor and Board of County Commissioners (Board) on May 8, 2018 for an update on the meeting on May 15, 2018, with Florida Communities Trust (FCT), Florida Fish and Wildlife Conservation Commission (FWC), Osceola County, and Central Florida Expressway Authority (CFX) regarding the potential impacts to Split Oak Forest Wildlife Environmental Area (SOFWEA) due to the construction of the Osceola Parkway Extension Project (OPE). The meeting was organized by FCT staff at the request of Osceola County and CFX. In response to the meeting request, FCT invited FWC to attend and requested that Orange County attend the meeting.

The purpose of the meeting was to discuss the process for the construction of a linear facility, that is a multilane divided highway, transfer of lands to offset impacts to SOFWEA from the construction of the OPE, any associated regulatory impacts, and outline the required steps and process for amending the following items:

1. FCT Grant Award Agreement between FCT and Orange and Osceola counties;
2. The Deed of Conservation Easement granted to FWC by Orange and Osceola counties; and
3. The Interagency Management Agreement between FWC and Orange and Osceola counties.

FCT provided a brief overview of the SOFWEA project including the date of the acquisition, purchase price of SOFWEA, and the funding source used by FCT to assist with the acquisition of the SOFWEA. CFX provided a brief overview of the proposed OPE project, including lands being proposed to offset the loss of that portion of SOFWEA impacted by the OPE and lands being proposed to offset regulatory impacts from the construction of the entire OPE project.

FCT staff stated that in order to amend the Grant Award Agreement, the Deed of Conservation Easement, and the Interagency Management Agreement, the following steps need to be taken:

1. Orange County and Osceola County must make a joint amended application to FCT regarding the removal of the OPE impacted lands from the SOFWEA. The application would also need to include adding those lands identified as potential mitigation for the OPE impacts to SOFWEA; and

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2. Orange County and Osceola County must make a joint request to FWC to amend the Deed of Conservation Easement and Interagency Management Agreement for the management of SOFWEA.

The criteria that FCT and FWC will likely use to evaluate the above-mentioned applications and requests are set forth in the following statute, Florida Administrative Code (FAC) rules, and FWC policy directive: Section 704.06, Florida Statutes, Rules 62-818.015, and 62-818.016, FAC and FWC's Mitigation Park Program Directive.

Although the specific requirements under the abovementioned statute, rules and FWC Mitigation Park Program Directive were not discussed at the meeting, the Board should be aware of specific options that would be required:

1. Under Rule 62-618.015, FAC. Consideration of Recipients request for Linear Facilities:  
A written statement that the Local Government has reviewed and approved the proposed use.
2. Under Rule 62-818.016, FAC. Consideration of Recipients Request for Land Exchanges:
  - i. Only local governments may participate in land exchanges for FCT project lands.
  - ii. A written statement from the Recipients governing council that it has reviewed the proposal and that the governing body conceptually approves the proposed land exchange by an affirmative vote of at least three-fourths of its members or the local requirement, whichever is higher.
3. Amendment of the Deed of Conservation Easement and Interagency Management Agreement with FWC will require Board approval.

FCT and FWC representatives opined that an application to FCT and FWC at this time is premature due to the fact that the CFX amended Project Development and Environment (PD&E) study has not been initiated nor has the final alignment through SOFWEA been approved. CFX will need to provide a substantial amount of information that will be generated by the amended PD&E study that Orange and Osceola County will utilize in the application to FCT and FWC, if the Orange County Board decides to move forward with the above outlined processes.

Staff will be glad to provide individual briefings on this matter and will continue to keep the Board informed of future developments regarding the Osceola Parkway Extension Project.

BJ/ERJ/DDJ: mg

c: Chris Testerman, Assistant County Administrator  
James E. Harrison, Assistant County Administrator  
Jon V. Weiss, P.E., Director, Community, Environmental and Development Services Department  
Elizabeth R. Johnson, CEP, Assistant Manager, Environmental Protection Division

**62-818.015 Consideration of Recipient's Request for Linear Facilities.**

The Declaration of Restrictive Covenants for Trust Project Sites limits the use of the property to conservation, outdoor recreation, and other related activities. However, the Trust periodically receives requests for Management Plan modifications to allow linear facilities and related appurtenances on the Trust Project Site. When evaluating these requests, the following process must be followed.

(1) First, there has to be a determination:

- (a) That there is no reasonable alternative to the proposed modification land use on the Trust Project Site; and,
- (b) That the land use is designed to have a minimal impact to the site; and,
- (c) A copy of an alternative analysis assessment of other off-site alternatives or options considered by the Recipient.

(2) If the Trust determines that no practical off-site alternatives exist, then the following information is required:

- (a) A written statement that the Local Government has reviewed and approved the proposed use;
- (b) A description and dimensions of the linear facility, and of the area that will be affected during construction;
- (c) Information on the natural communities and cultural features found on, and immediately surrounding the site of the proposed facility;

(d) A statement explaining how the proposed facility will be compatible with planned recreational uses of the Trust Project Site, as committed to in the approved Management Plan;

(e) Discussion of the proposed mitigation for impacts to the Trust Project Site; and,

(f) A modified master site plan drawing identifying the locations of existing vegetation and all proposed structures, facilities and restoration areas that will be affected by the facility.

After receiving all of the above information, staff will evaluate and review the request for consistency according to the above listed requirements. If the proposal meets the above requirements and has minimum impact to the Project Site, staff may approve the request. If public objections are received, if it is a large project, or if the project could be viewed as controversial the proposal will be presented to the Trust Governing Board for consideration.

(3) If the request is approved, the Recipient must:

- (a) Provide an appraisal of the land use area or other valuation method as approved by Trust staff;
- (b) Provide a legal description from a licensed surveyor;
- (c) Sign an amendment to the Declaration of Restrictive Covenants that provides for the changed use of the Project Site; and,
- (d) Record the amended Declaration of Restrictive Covenants in the Public Records of the County where the property is located.

The Recipient will be required to pay for the land use area. The payment shall be allocated to the Recipient and the Trust based on the percentage of the original grant (i.e., 50% Recipient participation and 50% Trust participation).

*Rulemaking Authority 380.507(11) FS. Law Implemented 259.105, 380.510 FS. History—New 2-8-10, Formerly 9K-7.015.*

### **62-818.016 Consideration of Recipient's Request for Land Exchanges.**

The Declaration of Restrictive Covenants for Trust Project Sites limits the use of the property to conservation, outdoor recreation, and other related activities. However, Recipients occasionally receive requests from adjacent property owners for land exchanges to expand the adjacent development in return for other lands adjacent to the park.

When evaluating these requests, the following process must be followed.

(1) Only local governments may participate in land exchanges. The Local Government must send a request to the Trust for a proposed land exchange. The Trust will not accept proposals from any other party. To be considered by the Trust, the proposal must at a minimum meet the following tests:

(a) The proposed exchange parcel(s) must be contiguous to a Trust Project Site, which could include being connected through a land bridge, easement or blue way;

(b) The proposed exchange parcel(s) must be at least equal to or greater in terms of upland acreage;

(c) The proposed exchange parcel(s) must have at least the same real estate value (as determined through independent appraisal[s]) as the Trust parcel being given up (or monetary compensation of the difference). There will be no monetary compensation if the proposed parcel(s) to be exchanged have a value greater than the Trust parcel;

(d) The proposed exchange parcel(s) must have a significant and clear net environmental, conservation and/or recreational benefit to the Project Site as determined by Trust staff; and,

(e) The exchange cannot result in a lower score based on the Application criteria.

If it is determined that no discernable net environmental, conservation, and/or recreational benefit to the Project Site would be achieved through the land exchange, the request will be denied.

(2) If the above tests are met, the Trust staff will then request the below additional information to further evaluate the request.

(a) A written statement from the Recipient's governing council that it has reviewed the proposal and that the governing body conceptually approves the proposed land exchange by an affirmative vote of at least three-fourths of its members or the local requirement, whichever is higher;

(b) A revised Management Plan with a revised master site plan;

(c) Information on the natural communities and cultural features found on the area to be exchanged;

(d) A survey and legal description of the parcel to be acquired and of the parcel to be provided by the Recipient/Trust (paid by the entity proposing the exchange and commissioned by the Recipient);

(e) A title policy of the parcel to be acquired;

(f) Separate appraisals for each parcel (to be paid by the entity proposing the exchange and commissioned by the Recipient). The appraisal shall be completed according to the Department standards, after consultation with Department appraisal staff. The parcel(s) to be provided by the Recipient/Trust shall be appraised as if it did not have any development restrictions on it;

(g) Phase I environmental site assessment of the parcel to be acquired (to be paid by the entity proposing the exchange and commissioned by the Recipient); and,

(h) Any other items requested by the Trust to properly evaluate the request.

After receiving all of the above information, Trust staff will evaluate and review the request for consistency according to the above listed requirements. If the exchange proposal meets the above requirements and has a net positive environmental, conservation and/or recreational benefit, Trust staff will put the request on the agenda of the next scheduled Trust Governing Board Meeting for consideration.

(3) If the exchange request is approved by the Governing Board, the Recipient must:

(a) Sign an amendment to the Declaration of Restrictive Covenants that provides for the changed use of the Project Site;

(b) Record the amended Declaration of Restrictive Covenants (and any other necessary local Government document[s]) in the Public Records of the County where the original Declaration was recorded; and,

(c) The entity receiving the exchange must provide monetary compensation to the Trust if the value of the land provided by the Recipient/Trust is greater than the land received by the Recipient/Trust in the exchange. Such funds will be distributed between the Trust and the Recipient in accordance with the percentages in the original grant award.