



Agenda Item Summary

File #: 24-00596

Agenda Date: 7/9/2024

Agenda Item Name:

Watermelon Pond – Howell Tract Option Contract to Purchase Conservation Easement

Presenter:

Andi Christman, Environmental Program Manager – Environmental Protection Dept., (352) 264-6803

Description:

Staff Requests the Board of County Commissioners (BoCC) approve and exercise the attached Option Contract to Purchase a Conservation Easement over approximately 40-acres from Julian H. Howell, Jr. through the Alachua County Forever (ACF) program.

The exercise of this Contract to purchase a Conservation Easement, is the final BoCC action on the acquisition of this project.

Recommended Action:

1. Approve and authorize the Chair to:
 - a. Exercise the Option to Purchase the Watermelon Pond – Howell Conservation Easement pursuant to the Option Contract, subject to the County's rights to conduct due diligence inspections and notice Seller of Title Defects and Environmental Defects as set forth in the Option Contract, and
 - b. Execute the Watermelon Pond – Howell Conservation Easement Deed in advance of closing;
2. Delegate to the County Manager the authority to determine whether the County will accept the non-permitted title exceptions, #3, #5, #6, #7, #8, and #9; and
3. Approve the acquisition subject to an approximately 30' wide utility corridor replacement easement, to be drafted during due diligence, allowing replacement and termination of title exception #6; and
4. Authorize staff to execute additional documents as necessary to close the transaction; and
5. Approve the attached budget amendment authorizing the expenditure of funds for due diligence and associated closing costs.

Prior Board Motions:

On April 23, 2002, the BoCC placed Watermelon Pond – Howell property on the Active Acquisition List (Full Price List).

On June 28, 2022, the BoCC adopted Resolution 22-66 amending the process for selecting and acquiring Environmentally Significant Lands purchased using Wild Spaces and Public Places (WSPP) local government infrastructure surtax proceeds. This authorizes the acquisition of lands through fee simple and less-than-fee means and provides the process for such.

Fiscal Note:

The attached Journal Entry requests \$219,560.00 to complete this acquisition. (Exhibit 7)
This acquisition utilizes the funding from the one-cent surtax allocated to Conservation Lands.

Fund 140.41.4160.537.68.00: 6194101 (Land Acquisition) - Watermelon Pond - CE3 Conservation Easement - Howell

Please see exhibits 7 (Budget Amendment) & 8 (Acquisition and Stewardship Costs) for additional detail.

Strategic Guide:

Environment

Background:

Staff has negotiated the attached Watermelon Pond – Howell Option Contract to Purchase a Conservation Easement (Option), Exhibit 1, and it was executed by the Manager on June 26, 2024. The Option requires transmittal of a signed Notice of Exercise of Option by the BoCC Chair, to the Sellers by July 31, 2024, the date the option period ends. (Exhibit 3)

During the Inspection Period, the County shall have 120 days after the BOCC exercises its Option to conduct all due diligence on the property. The County may exercise its rights to resolve any due diligence matters pursuant to the terms of the contract within those 120 days and to extend the closing date if necessary.

The Howell property consists of one parcel (02711-006-006) totaling approximately 40 acres. It is located in southwest Alachua County, south of Newberry, along the boundary with Levy County. The property is within the Florida Forever project boundary for Watermelon Pond. The Howell Property is adjacent to the Alachua County-owned Watermelon Pond Preserve - Sheffield Tract, and also shares its eastern boundary with the Ashton Biological Preserve which is under a Conservation Easement held by the county. Additionally, the southern boundary line of the parcel is adjacent to Goethe State Forest. The Howell parcel is one of the area’s inholdings in a larger conservation effort, and falls within one of the ACF program priority corridors (the “Southern” corridor). Due to the parcel’s adjacency to the surrounding conservation lands and the imperiled natural communities onsite in good ecological condition, it is important to protect this parcel with a county-held conservation easement.

The Watermelon Pond area is a dynamic region in Alachua County that supports the threatened dry longleaf pine sandhill natural community with scattered marshes and lakes and all its associated wildlife, such as burrowing owl, Eastern indigo snake, southern fox squirrel, gopher frog and gopher tortoise. In addition, it is located on the Brooksville Ridge in the unconfined aquifer zone of Alachua County, making it a high rainfall aquifer recharge site. Future expansion and development of the City of Newberry and City of Archer threaten this unique Watermelon Pond area.

The Howell property contains a mixture of sandhill, sinkhole pond, rosemary scrub, and oak hammock and a portion of Barrel Pond. It is in good to fair ecological condition and has a nice mix of uplands

and wetlands in close proximity. The owner's restoration efforts include removal of sand pine and cedar trees, and he is working on debris removal. The property owner has lived on site since the early 1970s and has seen on the property, gopher tortoise, night hawk, turkey, white tailed deer, diamondback rattlesnake, and other species. Additional information can be found in the attached property evaluation. (Exhibit 4)

The overarching "Conservation Values" outlined in the 40-acre conservation easement will direct the county's protection of the land into the future (Exhibit 2). Mr. Howell's primary residence is located in the conservation easement's designated 5-acre Building Envelope and the remaining 35 acres of the parcel will be designated as Preservation Area. (Exhibit 5)

The baseline documentation report will capture the property's current condition and a 10-year Conservation Easement Stewardship Plan will be prepared by the closing date.

There are no Permitted Exceptions in the Howell Option Contract, but these non-standard Title Exceptions are noted:

Schedule B-II Exceptions:

#3. This is a standard Sovereign Submerged Land (SSL) exception and will be deleted when the specific SSL language will be added to policy. Any Owner's Policy issued pursuant hereto will contain under Schedule B the following exception: Any adverse ownership claim by the State of Florida by right of sovereignty to any portion of the Land insured hereunder, including submerged, filled and artificially exposed lands, and lands accreted to such lands.

#4. Standard Exception related to any potential municipal or utility liens on the property. Seller to satisfy any such liens at or before closing.

#5. TOGETHER WITH an existing terminable private road ingress & egress easement in common, maximum of 100-foot width. To be mapped with boundary survey. Easement recorded in O.R. Book 1526, Page 768, Public Records of Alachua County, Florida.

#6. SUBJECT TO a blanket utility easement in favor of Central Florida Electric Cooperative, Inc. recorded in O.R. Book 2397, Page 2974, Public Records of Alachua County, Florida. The blanket easement covers the entire property and prohibits trees within the easement area. It also authorized CFEC the right to trim, cut and keep clear trees within the easement area. CFEC is willing to terminate the blanket utility easement in exchange for an approximate 30-foot-wide utility easement with a legal description fitting the current power line on the parcel.

#7. SUBJECT TO Declaration of Submission to Watermelon Triangle Corporation (WTC) as recorded in O.R. Book 3903, Page 996, Public Records of Alachua County, Florida. This instrument provides Julian Howell and subsequent owners of the parcel, the benefit of the CSX Railroad Road Gate Crossing Easement needed for legal access, but in return, obligates the owner to pay an assessment to WTC. Julian Howell, not Alachua County, will be responsible to pay the assessment after the closing of the Conservation Easement.

#8. SUBJECT TO standard exception of the United States and State of Florida rights of Sovereign Submerged Lands (SSL). It is not expected that Barrel Pond, located partially on the parcel, will be considered SSL by the State of Florida, but that final determination has not been made. Coverage is excepted as to riparian and littoral rights; the possible right of the public to use beach area and/or

waterways; and any Land insured herein that was formerly or is currently submerged, including any filled lands, artificially exposed lands, and lands accreted to such lands, for the rights of the United States Government and the State of Florida. If the Navigational Servitude Endorsement is attached to this policy and made a part hereof, the coverage afforded thereby shall not extend to any portion of the Land subject to a claim of ownership by the State of Florida by right of sovereignty. Commitment exception #3 is hereby deleted in its entirety.

#9. This policy does not insure title to any mobile home located on the Land insured herein. Alachua County is not taking title to the parcel, but only purchasing the development rights of the parcel, through the conservation easement. The owner's personal property such as a mobile home is not a consideration for a conservation easement.

Some of the title exceptions may be deleted prior to closing based on additional title examination or the survey. (Exhibit 6)

Current legal access to the Howell Tract exists via an easement over private roads from U.S. Highway 27/41. The access is fully functional for land management activities. Public access as may be appropriate can be provided by way of staff-guided tours. Alachua County's ownership of the King, Ferran, Warny and Sheffield parcels acquired in 2006, 2008, 2021 and 2024 respectively, relies on the same access roads.

A boundary survey, baseline documentation report, phase I environmental assessment and the 10-year Conservation Easement Stewardship Plan are the next steps of due diligence that will be initiated after the Option is Exercised by Alachua County. Closing transactions would occur once there has been a determination by the County Manager that there are no unacceptable title, survey, or environmental defects.

Comp Plan Reference:

Acquiring the Watermelon Pond – Howell Conservation Easement fulfills multiple objectives endorsed within the Alachua County Comprehensive Plan. Specifically, Policy 6.0 Land Conservation Program within the Conservation and Open Space Element, states “Establish and maintain a land conservation program for the purchase, preservation, and management of natural areas and open space to complement the regulatory approaches identified in other section of this element.”