



Agenda Item Summary

File ID: 23-0867

DEPT-7

Meeting Date: 6/6/2023

PLACEMENT: Departmental

TITLE:

APPROVAL AND ACCEPTANCE OF AN ESCROW AGREEMENT, SUBSEQUENT ADOPTION OF A RESOLUTION APPROVING AND ACCEPTING ASSOCIATED DEEDS AND EASEMENTS, AND FINALIZATION OF LANDOWNER TRANSACTION RELATED TO THE MANATEE POCKET SW PRONG STORMWATER TREATMENT AREA (STA) PROJECT

EXECUTIVE SUMMARY:

Request approval of items related to the Manatee Pocket Southwest Prong STA Project (Project), located in the Port Salerno Community Redevelopment Area (CRA) describing transactions necessary to allow for successful fulfillment of the Project with approval and acceptance of an Escrow Agreement between Martin County and Peter Henry Grien and Susette Grien (Landowner) whereby documents will be held in escrow pending final approval of the Future Land Use Map and Zoning Atlas amendments for certain properties owned by Landowner, and adoption of a resolution accepting the deeds and easements necessary for the construction and maintenance of the Project.

DEPARTMENT: Public Works

PREPARED BY: **Name:** Zach Hughes
Title: Senior Project Manager

REQUESTED BY: Ecosystems Restoration and Management Division

PRESET:

PROCEDURES: None

BACKGROUND/RELATED STRATEGIC GOAL:

Summary of the Project

Staff with the Ecosystem Restoration and Management Division of the Public Works Department has worked to plan and develop the Project, which aims to reduce harmful nutrients in the SW Prong. The SW Prong is the last tributary of the Manatee Pocket to receive necessary water treatment and is critical to the overall health of the waterway. The Project will consist of a treatment train involving one wet detention pond (approximately 0.5 acres), one diversion weir structure, enhanced vegetated channels, a Summit High-Performance Upflow Filter System with bioactive media prior to discharge, and wetland restoration (approximately 1.5 acres). The Project is projected to remove approximately 334 pounds of TN (total nitrogen) and 234 pounds of TP (total phosphorous) per year from the downstream Manatee Pocket and the Indian River Lagoon, which are currently designated impaired

by the Florida Department of Environmental Protection. The Project is in the Ecosystems Division Capital Improvement Plan (CIP) and is fully funded. (See Exhibit C 30% Conceptual Design).

Transaction with Landowner

To realize this important water quality project, County Staff has negotiated with Landowner to obtain six (6) of Landowner's vacant lots located in the Port Salerno CRA totaling approximately 1.7 acres (Lots). The Landowner has agreed to convey the Lots to the County at no cost, in consideration for the County's (i) abandonment (see Abandonment Agenda Item 23-0820) of four (4) unopened rights-of-way (ROW) in the vicinity of the Project, totaling approximately 0.99 acres (ROWs) and (ii) initiation of amendments to the Future Land Use Map and Zoning Atlas for the abandoned ROWs and the northern portion of three (3) parcels owned by Landowner along Cove Road, totaling approximately 1.97 acres (Retained Parcels). The proposed Future Land Use Designation and Zoning Classification for the Retained Parcels and the ROWs will change from CRA Neighborhood to CRA Center and from Detached to Corridor, respectively. In addition, Landowner has agreed to grant County a temporary construction and permanent access easement (Easement) over a portion of the abandoned ROWs necessary to construct and maintain the Project.

The Lots that will be conveyed are depicted in the attached Exhibit A and outlined in yellow. The Retained Parcels are outlined in green, and the ROWs to be abandoned are shaded in purple. The legal descriptions and land areas of the properties subject to this agenda item are shown in Exhibit B.

On May 3, 2022, this Board adopted Resolution No. 22-5.8 initiating the amendment to the Future Land Use Map for the subject properties and further directed staff to proceed with the necessary steps to bring this transaction to completion. Since that time, staff has worked closely with Landowner and its counsel to create the documents necessary to complete the transaction; namely, the deeds conveying the Lots, the Easement, and an Escrow Agreement to address the timing and recording requirements for the transaction. Additionally, Landowner has submitted its Petition for Abandonment of the ROWs, which the Board will consider today pursuant to Agenda Item 23-0820.

In the future, after review by the Local Planning Agency, a final item will come to the Board to address the adoption of an amendment to the Future Land Use Map for the Retained Parcels and the abandoned ROWs.

Escrow Agreement

The Board is asked to approve the attached Escrow Agreement, which was prepared by County staff and is essential to ensure the proper recording and memorialization of the various steps of this transaction. Since the amendments to the Future Land Use Map and Zoning Atlas for the ROWs and the Retained Parcels will not be final until the applicable appeals period has expired, it is necessary to hold in escrow certain executed documents, including the deeds for the Lots, the Resolution abandoning the ROWs, along with construction and access easements in favor of the County and several additional easements in favor of various utilities. Once the applicable appeals period expires, these documents will be released from escrow and recorded in the Public Records of Martin County, as applicable. At this point in time, the transaction with Landowner will be complete, and County staff can begin work on the Project.

In summary, by authorizing the recommended action described below, the Board will allow construction of the Project to begin, thereby providing important nutrient reduction in the Manatee Pocket SW Prong, enhancing the natural environment and providing the public with open space and

access to the area's natural features. The Project will be paramount to achieving better drainage, reduced flooding, and increased water quality in the Port Salerno CRA, as required by the Community Redevelopment Plan's Public Services Goal of "providing basic public infrastructure for stormwater, potable water, and sanitary systems for existing and future development." Since much of the existing development in Port Salerno was built before basic stormwater standards were established, retrofit projects represent important improvements to water quality and protection of the Manatee Pocket.

All items will be reviewed and approved by Legal prior to recording in the records of Martin County. Peter Grien and Susette Grien are brother and sister. A Same Name Affidavit is being signed by the owner's and will be provided prior to closing and acceptance of all documents.

ISSUES:

The amendments to the Future Land Use Map and Zoning Atlas for the ROWs and the Retained Parcels will not be final until the applicable appeals period has expired.

LEGAL SUFFICIENCY REVIEW:

This item has been reviewed for legal sufficiency to determine whether it is consistent with applicable law, has identified and addressed legal risks, and has developed strategies for legal defensibility.

RECOMMENDED ACTION:

RECOMMENDATION

1. Move that the Board approve the Escrow Agreement; and
2. Move that the Board adopt a Resolution approving and accepting the Temporary Construction Easement, Access Easement, and Utilities Easements (attached to the Escrow Agreement as Exhibits F, G, I-1, I-2 and I-3, respectively) and approving and accepting the deeds for the Lots (attached to the Escrow Agreement as B-1, B-2, B-3, B-4, B-5 and B-6); and
3. Move that the Board accept and approve staff obtaining any and all additional items necessary to complete this transaction in accordance with the terms and conditions of the Escrow Agreement, obtain a Same Name Affidavit from both owners and insure that all documents are approved by Legal in writing prior to finalization and recordation; and
4. Move that the Board authorize the Chairman to execute any and all additional documents necessary to complete the transaction with Landowner.

The resolution for approval and acceptance of the Easements and deeds will be added as a Supplemental Memorandum.

ALTERNATIVE RECOMMENDATIONS

Provide staff with alternate direction.

FISCAL IMPACT:

RECOMMENDATION

Cost associated with this project will be paid with approved CIP funding for the Manatee Pocket SW Prong STA Project.

ALTERNATIVE RECOMMENDATIONS

None

DOCUMENT(S) REQUIRING ACTION:

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| <input type="checkbox"/> Budget Transfer / Amendment | <input type="checkbox"/> Chair Letter | <input checked="" type="checkbox"/> Contract / Agreement |
| <input type="checkbox"/> Grant / Application | <input type="checkbox"/> Notice | <input type="checkbox"/> Ordinance |
| <input type="checkbox"/> Other: | <input checked="" type="checkbox"/> Resolution | |

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