# Environmentally Endangered Lands Program Procedures Committee Meeting

**January 17, 2019**

**Approved May 2, 2019**

## *Attendance*

### PROCEDURES COMMITTEE MEMBERS

* Linda Behret
* Sil Crespo
* Rick Follet
* Bo Platt
* Rocky Randels
* Leesa Souto
* Diane Stees
* Kim Zarillo

### PROGRAM STAFF

* Laura Clark
* Mike Knight

### GUESTS

* Vince Lamb, Citizen
* Paul Schmalzer, Selection and Management Committee
* Maureen Rupe, Citizen

## *Meeting Minutes*

### CALL TO ORDER and ROLL CALL

Linda Behret, Chairman, called the meeting to order at 3:10 PM.

Mike Knight, Environmentally Endangered Lands (EEL) Program Manager, informed the group that due to absences and difficulties with maintaining a quorum in another committee, future EEL Program Citizen Advisory Committee meetings will include a roll call where staff will provide their understanding of advance notifications regarding any absences. A determination of whether the absence is excused, or unexcused, will be made each time, by either the Chairman, or the Committee, using the County’s established guidelines. Linda Behret indicated her preference for those decisions to be made by the entire committee. Mike acknowledged her preference and confirmed that all eight current committee members were in attendance.

### PUBLIC COMMENT

None.

### MINUTES

No minutes were presented for approval.

### AGENDA ITEMS

**Program Update**

Mike noted that the next regularly scheduled quarterly meeting for the Procedures Committee would have been held in February, so staff would be doing the Program update today and the February quarterly meeting will not be held. Mike provided information on recent Environmentally Endangered Lands (EEL) Program activities. A copy of this presentation is available upon request by calling the EEL Program Office (321) 255-4466.

Information was provided on the following items:

* Land Acquisition
* Events
* Volunteers October 2018 through December 2018
* Space Coast Birding and Wildlife Festival
* Drone Survey Project
* Board of County Commissioners (BOCC) Items scheduled for consideration on January 22, 2019
  + Selection and Management Committee Reappointments and BOCC Revisions to EEL Program’s Land Acquisition Manual. Discussion occurred regarding the BOCC January 8, 2019 action regarding appointments for the Selection and Management Committee and the Board’s discussion of revisions to the qualifications for membership on the Committee.

The following was noted:

* In mid-November, staff submitted a request to reappoint seven existing SMC members for another two-year term as their terms were due to end at the end of December 2018.
* The item was moved to the January 8, 2019 Commission meeting.
* The January 8, 2019 meeting, the BOCC only reappointed the two members who have served six years or less (Oli Johnson and Tammy Foster). Five members, (Dave Breininger, Paul Schmalzer, Kim Zarillo and Laurilee Thompson) were not reappointed. Clarification was later provided that Elizabeth Becker, current SMC member, was appointed in 2018 so she does not need to be reappointed this year.
* No prohibition on reapplying was placed on SMC members who were not reappointed.
* In their January 8, 2019 motion, the BOCC included a direction to Commissioner Lober to bring back a resolution regarding the requirements for an academic degree in Biological or Environmental Sciences and to bring a Board Resolution to that effect back for BOCC review on January 22, 2019.
* During the January 9, 2019 SMC meeting, the SMC passed a motion in support of having the PC convene to discuss the January 8th actions of the BOCC.

During the (Procedures Committee (PC) meeting, an attempt was initiated to play the portion of the Board meeting which included discussion of the SMC reappointments, but the video was not available on the County’s web site.

Mike provided information on his understanding of the planned revisions to the academic requirements for SMC membership. The current language reads:

“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 in natural areas, science education, or natural area sanctuary design.”

Change: remove graduate, change “a” to “an”.

New language: “Have an academic degree in biological or environmental sciences.

Mike noted his understanding that no other changes to the requirements for SMC membership have been considered.

Sil Crespo noted his feeling that the PC should communicate with the Board to explain why scientific expertise and longevity on the SMC are important.

Diane Stees noted that the EEL Program was sold to the public with the understanding that it would be guided by science and politics would not be involved.

Kim noted her recollection that during the January 9, 2019 SMC meeting, it was mentioned that during the BOCC meeting the previous day, there had been some discussion on the possibility of removing acquisition responsibility as one of the duties of the SMC. Mike noted he hasn’t heard that item come up again since the meeting.

Diane spoke of the strong public support for the EEL Program.

Sil reminded the group that the SMC approves recommendations for properties to be acquired, but it is the Board who provides the final approval for acquisition, once the SMC has provided their recommendation.

Vince Lamb spoke about the need for strong public support during Board meetings. He added that he, Mark Bush and Ross Hinkle, previous SMC members, have either already written, or committed to writing members of the BOCC regarding the importance of retaining long term scientific expertise on the Committee and noted the importance of having Paul Schmalzer, one of the State’s most prominent Native Plant Biologists, and Dave Breininger, an outstanding Florida Scrub-Jay biologist on the Committee. Vince noted he had also suggested an option of maintaining the current members of the committee, but expanding membership to twelve members, which would allow for a few new members.

Paul Schmalzer noted he had put together some summary remarks and provided a copy to EEL staff. The following was noted:

Paul A. Schmalzer, Ph.D.

January 17, 2019

On January 8, 2019 the Board of County Commissioners (BOCC) considered the reappointment of the seven serving members of the Selection and Management Committee (SMC) of the Environmentally Endangered Lands (EEL) Program. The Board chose to reappoint only two members who have served for the shortest time on the committee. One recently appointed member did not need to be reappointed. The five members not reappointed have collectively 98 years of service to the EEL Program. At the January 9 meeting of the SMC, the committee passed a motion requesting the Procedures Committee meet regarding this action. I would like to provide a brief overview of the background and history relevant to this issue.

In 1989 Brevard County government put forward a referendum to the voters to approve bonding to purchase environmentally endangered lands. It failed at the polls. Many attributed that failure to the lack of safeguards in the proposed program. In response, the Board of County Commissioners (BOCC) appointed the first Procedures Committee and asked it to develop a Land Acquisition Manual (LAM) modeled on the existing Volusia County program.

This manual was adopted by the BOCC. The LAM established the first Selection Committee, which was to be a seven member committee of volunteer scientists. The Selection Committee was charged with evaluating all parcels nominated for acquisition (or sale) under the program and approving those selected for acquisition (or sale). Final acquisition was to be determined by the BOCC, but the Board “may not add or expand projects on the acquisition or sale list”. The Procedures Committee was charged with considering any substantial changes to the policies of the LAM.

The public was assured before the 1990 referendum that lands recommended for acquisition would be only those approved by the Selection Committee and that the procedures of the

Land Acquisition Manual would be followed. The 1990 referendum was passed by the voters. The Land Acquisition Manual has been revised in 1997, 2006, 2010, 2011, and 2013. In all cases the Procedures Committee and the Selection and Management Committee have approved changes that then went to the BOCC to be adopted. Note that in 1997 the Selection Committee was renamed the Selection and Management Committee.

At the time of the second EEL referendum in 2004, voters were assured that the structure and procedures of the EEL Program would be maintained with the Selection and Management Committee recommending lands for acquisition. This referendum was also approved by the voters.

The LAM specifies procedures for the appointment of members to the Selection and Management Committee to ensure that only qualified persons are appointed. It allows the reappointment of serving members without additional review. In the 28-year history of the EEL Program, the BOCC has never before reappointed only some of the serving SMC members who were willing to continue on the SMC. Further, the indication that one commissioner may rewrite criteria for SMC membership without going through the Procedures and Selection and Management Committees differs from the Board-adopted policy established in the LAM.

The Board may choose to waive its own policies. However, arbitrarily changing procedures in place for 28 years is a cause for concern. Voters were assured in two separate referenda, 1990 and 2004, that the Environmentally Endangered Lands Program would be based in science. In my view it is a violation of public trust to depart from structures and procedures adopted to ensure the integrity of the EEL Program.

Diane, Sil, and Linda voiced their agreement with Paul’s comments.

Diane noted her understanding that one of the reasons the 1989 referendum did not pass was due to the way the Beach and Riverfront Referendum had been implemented with some small slivers of undevelopable property sometimes being acquired from developers. It was also noted that the referendum did not provide funding for management of the lands which were acquired, and management funding was one of the items included in the EEL Referendum of 1990, although it took an action by the State Legislature to provide that confirmation to some EEL Program opponents at the time.

It was noted that the pending Resolution regarding SMC membership criteria also includes a waiver of the Land Acquisition Manual policy that includes committee review of any changes to the Land Acquisition Manual.

Diane asked if there is any history of the Board waiving an EEL Program policy or procedure in the past. Mike noted his understanding that sometimes during small donations or acquisitions in the mega-parcel areas, the Board has waived County Policies requiring Environmental Site Assessments, or Boundary Surveys, but they have not previously waived a requirement of the Land Acquisition Manual.

Leesa asked for clarification on who is preparing the resolution. Kim asked if it has been normal procedure for one Commissioner to write a Resolution. It was noted that generally Resolutions are prepared by Departments sponsoring agenda items.

Diane noted her concern that it appears the Board has given one Commissioner permission to rewrite the rules.

It was noted that all five commissioners had supported the action of only approving two SMC members.

Kim noted the language in the Clerk’s Memo only includes references to academic degrees in Biological or Environmental Sciences. Mike noted his understanding that the relevant types of appropriate degrees will not be changing.

**Public Comment**

Maureen Rupe, citizen, spoke of her concern regarding what she considers to be political influences on the EEL Program and asked committee members to stay cautious.

**Additional Discussion**

Bo Platt stated he has written his commissioner regarding the SMC appointments and expressed his concern regarding loosing so many members at the same time.

Rocky Randals noted that no one likes to be backed up against a wall, and providing options can be a positive thing.

Leesa Souto reminded everyone that there are procedures in place which govern SMC appointments and they are there for a reason.

Lengthy discussion occurred regarding the message that the PC wanted to send to the Board of County Commissioners and the best way to move the message forward. It was determined that Diane would draft a letter for Linda to review and forward to the Commission.

**MOTION ONE**

**Sil Crespo made the following motion: Diane Stees will write a draft letter to the Commission and forward the draft to Mike Knight who will distribute to PC members. Comments will be sent to Mike who will forward them to Linda Behret, Chairman. Linda will review comments, finalize correspondence and forward the letter to Commissioners.  
Kim Zarillo seconded the motion.  
The motion carried unanimously.**

A copy of the letter is included at the end of these minutes.

### NEXT MEETING

It is anticipated the next Procedures Committee meeting will be held on May 2, 2019.

### ADJOURNED

The meeting was adjourned at 5:08 PM.

### SUMMARY OF MEETING MOTIONS

1. Motion: Diane Stees will write a draft letter to the Commission and forward the draft to Mike Knight who will distribute to Procedures Committee members. Comments will be sent to Mike who will forward them to Linda Behret, Chairman. Linda will review comments, finalize correspondence and forward the letter to Commissioners.

### ACTION ITEMS

1. See Motion 1.

### Procedures Committee Letter to Board of County Commission

January 18, 2019

Dear Commissioner

One of the obligations of the Environmentally Endangered Lands Procedures Committee (EEL PC) is to make recommendations to the Board of County Commissioners (BOCC) to further the conservation, environmental education, and passive recreation goals of the EEL Program. In that capacity, the following are our Committee’s observations and recommendations regarding actions taken at the January 8, 2019 BOCC meeting:

1. The Board’s decision to not reappoint five members of the EEL Selection and Management Committee (SMC), forcing them to reapply again, is unnecessary and without merit. The five appointees, each an expert in their field, have provided hundreds, if not thousands, of volunteer hours to the County to guide the EEL land acquisition and management process with a science-based approach. This approach was presented to the voters of Brevard County prior to the 1990 and 2004 referendums and is a key reason why voters overwhelmingly approved these referendums. It is not a good business practice to “clean house” on a citizen advisory committee in which one of the membership requirements is the willingness to make a long-term commitment to serve on the committee. Keeping key scientific experts on the SMC with years of experience is of tremendous value to the County in ensuring that the BOCC is getting science-based recommendations on land management decisions. These individuals have done outstanding work for the County. Brevard County is fortunate to have these experts volunteering their time for the benefit of all. Our committee recommends the BOCC review this January 8th decision and consider a reinstatement of these five individuals to the SMC without requiring them to reapply for positions they already have held.
2. We believe the Board was given (or expressed) incorrect information at the January 8th BOCC meeting. A graduate degree is not required for appointment to the SMC as long as the applicant has the minimum required relevant work experience. It is to the County’s benefit to make sure that only qualified applicants serve on the SMC.
3. We do not understand why one Commissioner is tasked with changing the rules on appointment to the EEL SMC by weakening the criteria to serve on this key committee.
4. Over the years the EEL advisory committees have initiated the changes, or responded to BOCC requests, along with EEL and other County staff prior to presenting recommendations to the Board. The criteria in place, as approved by past Boards, requires appropriate science-based expertise in order to help the County make the best land management decisions possible. We welcome the opportunity to meet with the BOCC to discuss ways to improve this process.
5. Laurilee Thompson is the Tourist Development Council representative on the SMC, not Elizabeth Becker, as mentioned at the January 8th BOCC meeting.

We hope you will re-consider item 1) above, and will appreciate that the expertise, experience and passion of the SMC members is key to safeguarding the science-based approach to land management that the voters of Brevard County approved and expect in order to adequately preserve our County’s environmentally endangered conservation lands for the benefit of current and future generations.

Sincerely,

Linda Behret

Chair, EEL Procedures Committee