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# Alachua County

## Environmental Protection Department



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Chris Bird, *Director*

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ENVIRONMENTAL  
PROTECTION  
DEPARTMENT

June 12, 2014

### MEMORANDUM

To: Alachua County Board of County Commissioners

Via: Michael Fay, Acting County Manager *MF*

From: Chris Bird, Director *CB*

Subject: Barr Hammock Levy Prairie and Neighbor Meisel Concerns

The purpose of this memorandum is to update the Board of County Commissioners regarding the concerns that Mr. Marc Meisel, a neighbor of the Barr Hammock Levy Prairie Preserve, has expressed about the effect that the levee trail loop has on his privacy and quiet enjoyment of his adjacent property. Staff agrees with the Board's decision not to close the trail and to not construct a boardwalk (April 9, 2013 BoCC meeting).

As the attached report demonstrates, EPD staff has met numerous times with Mr. Meisel and the Island Field neighbors and have addressed their concerns as best they can under requirements imposed by the Board-adopted management plan, the various grants covenants, existing conservation restrictions imposed on the Preserve and the mission of the Alachua County Forever Program. Staff placed signage to restrict public access to the private roads, limit disturbances, and has facilitated improvements to the State access road and an increased law enforcement presence. Staff is proceeding with the design and construction of the southern main trailhead off of SW 175th Avenue which will serve as the primary entrance into the Preserve.

In summary, staff believes that while there are impacts associated with public use of adjacent property, these impacts are minimal, are less than those associated with a typical county park, and have been managed well by staff. We also believe that while these impacts are greater than the historic use as a cattle ranch, they are less than they would have been under the planned future land use of this property had the County not acquired it as a passive preserve. The previous owner contracted with Ducks Unlimited and the USDA to create the current floodwater impoundment. His goal was to construct a high-end hunting lodge on the southern uplands and market waterfowl-hunting weekends along the levee and in the basin. This is typically an early morning or late afternoon activity. He was also planning to use airboats as hunt platforms and to retrieve game. These uses would have been more disruptive to the neighbors than the current uses.

It is staff's position that the trail remain open and any decision to close the trail happen at a properly noticed public hearing so all the stakeholders have an opportunity to comment.

Please contact EPD Director Chris Bird if you have any questions.

Cc: Betty Baker, County Manager  
Michelle L. Lieberman, County Attorney  
Kim Baldry, Human Resources  
Ramesh Buch, Environmental Protection  
Sean McClendon, County Manager's Office

### Background

The Barr Hammock Levy Prairie Tract (Figure 1), was purchased from the Whitehurst family in March 2009 through the Alachua County Forever Program, using a combination of State of Florida (Florida Communities Trust (FCT)), federal (North American Wetlands Conservation Act (NAWCA)) and private funds. Both granting agencies restrict certain uses and impose certain obligations on the County. FCT requires the property be made available for passive, resource-based recreation.

The property basin is encumbered by a conservation easement in favor of the U.S.

Department of Agriculture Natural Resources Conservation Service. That easement prohibits structures in the basin and on the levee. Exceptions can be made for de minimus improvements that serve a recreational and educational function, e.g. signage, benches. But these improvements cannot impact the structural integrity of the levee. The levee is maintained by the federal government with the exception that the County maintains its surface accessibility for recreation.

The County opened the Preserve to the public February 2, 2013. That opening was attended by over 200 people. It remains a well-used site in the winter months owing to 6.5 miles of elevated trails and outstanding wildlife viewing and birding opportunities.

Mr. Marc Meisel has lived at 911 SE 149th Place (Figure 2), in the Island Field Subdivision adjacent to the Barr Hammock Levy Prairie Tract since September 2006. His residence is approximately 200 feet from the top of the levee (Figure 3) which encircles the eastern half of Levy Prairie. His property boundary is approximately 100 feet from the top of the levee. The trail system is located on the top of the levee along the two-lane maintenance access "jeep track" (Figure 4).

Mr. Meisel has complained to the County that:

1. Recreational uses along the trail negatively impact his privacy and quiet enjoyment of his property.

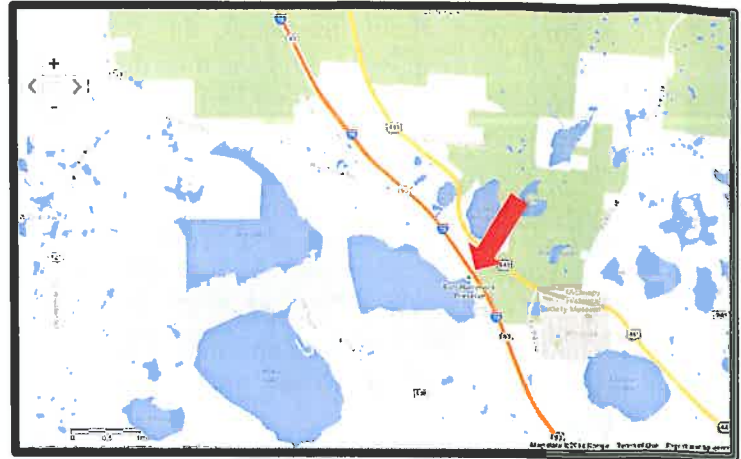


FIGURE 1 LOCATION OF BARR HAMMOCK LEVY PRAIRIE PRESERVE



FIGURE 2 MEISEL RESIDENCE



FIGURE 3 DISTANCE FROM MEISEL RESIDENCE TO TRAIL: 200 FEET.

2. He is concerned about his safety, the security of his property; about trespass of users and their dogs.
3. Human sewage and trash are problems.
4. Increased exposure to fire.
5. Vehicle traffic entering the trailhead parking lot from SE 11th Drive negatively impacts the Island Field subdivision and adds to the wear-and-tear of SE 11th Drive.
6. Staff "misled" the neighbors at the pre-opening and management planning workshops when staff referred to this trailhead as the secondary entrance and then opened it first (February 2013) before the southern, primary entrance.



FIGURE 4 TYPICAL TRAIL PROFILE.

### Findings and Recommendations

Staff works proactively to anticipate and mitigate conflicts at this and all of our preserves. Prior to the adoption of the Management Plan, staff holds community workshops to solicit public comment and address any neighbor concerns. Invitations are mailed to all the surrounding addresses. Two separate public workshops were held to discuss the management plan for the Levy Prairie portion of the preserve; on 3/27/2012 and 9/3/2008. These comments are included in the BoCC-adopted plan. A third meeting was held for the Island Field neighbors on 10/29/2012 so additional or new concerns could be heard prior to the opening. Mr. Meisel is listed as present at the last meeting. The following outlines the issues from those meetings and more recently from Mr. Meisel and the actions staff has undertaken to date to address these concerns.

A) At the 10/29/2012 Neighborhood Meeting prior to opening, neighbors expressed some concerns regarding security and increased traffic. Staff Actions:

- 1) Worked with Alachua County Sheriff's Office (ASO) to determine the best strategy for enforcing open/closed hours with regard to enforcing trespass at the gate and on the public Right of Way outside the gate. If a person is observed on the Preserve or in the parking lot after the posted hours, they can be cited for trespass. If the gate is closed, a car parked on the RoW outside of the gate, the owner may not be cited as it is on public property. Neighbors agreed to no opening and closing of gate.
- 2) Staff also recommended that prior to the opening, Neighbors:
  - a) Post their property as private.
  - b) Post neighborhood roads as private. Staff installed "Private Road" signs (Figure 5).
  - c) Physically block any access onto private property from the Levee Trail. There was one walk-over from a neighbor's (Folland) private property to the levee for the use of the Follands at the time of acquisition. It served a large gazebo encroaching fully on the Whitehurst property. As a condition of the purchase, the gazebo was removed, but the walk-over remained. See item C2 below.



FIGURE 5 "PRIVATE ROAD" SIGNS INSTALLED BY COUNTY

B) Staff stated this SE 11th Drive trailhead would be the secondary entrance as the management plan adopted by the BoCC envisioned a main entrance from SE 175th Ave/CR 234. That primary entrance would have enhanced facilities to include equestrian access. It is also serviced by a County-maintained, paved public road and is more accessible from US 441 and I-75. It also creates access to more miles of trails. It requires more planning, professional design and engineering and construction. Hence it would open later; up to two years



later assuming all went well. That work has been delayed due to competing priorities, resource constraints and more complexity that was anticipated. Staff has issued the Task Assignment to the design firm to plan the primary entrance and to provide the County with construction-ready plans. It is expected that this entrance will be open to the public in late 2015 or early 2016. Once it opens, we anticipate a few of the users who access the Levee Trail primarily for long-distance bike rides or hikes, will opt for the longer shaded trail system accessible from the southern trailhead. We plan to continue to operate the northern trailhead to facilitate access to the levee year-round and especially during the winter months when the basin is particularly attractive as a bird watching location.

The Hare property, which was purchased along with the Levy Prairie property and which is located farther west along Wacahoota Road was considered and rejected as a trail head for a number of reasons. It would be accessed from a bend in Wacahoota Road which is not optimal for traffic sight lines; it would require substantially more investment to develop parking facilities and a trail system to access the levee, and there is considerable uncertainty that a bridge to connect the uplands at the Hare property could be designed to properly access the levee. Because the levee is operated by the USDA as a flood-control structure, we would not be able to permanently affix the bridge to the levee making its design more complex. It would also have to be moveable to allow heavy equipment to access the levee for maintenance. If these obstacles could be overcome, using Hare as a trailhead would only solve the issue of traffic on SE 11<sup>th</sup> Drive and the Island Field subdivision. The trail system would still be a loop.

C) In January 2013, immediately prior to opening, staff also:

- 1) Installed "Stay on Levee" signs including at the one walkover to Folland's property, which had not been physically blocked by the Follands (Figure 6).
- 2) Requested Alachua County Sheriff's Office initiate increased patrols of parking area. Staff made them aware of the date it would be opened. By February, the request was logged and increased patrols formally initiated



FIGURE 6 "STAY ON LEVEE" SIGNS

D) In February 2013, staff received notification that a neighbor was concerned about drivers taking the corner at SE 11<sup>th</sup> Drive near her driveway too fast. Staff contacted the FDOT representative to try to get her concerns (blind corner, slow down) addressed. FDOT installed signage marking the curve and speed limit signs (Figure 7).



FIGURE 7 FDOT-INSTALLED SIGNS

E) Subsequent to the February 2013 opening, we received two complaints about visitors affecting privacy of neighbors close to the trail. One complaint from Ms. Abruscato on 2/19/2013. The second reported at rezoning meeting on 3/20/2013 from CHW, Inc. on behalf of their client Mr. Meisel. Mr. Meisel asserts that his quiet enjoyment is impaired by observing and hearing recreational users along the trail in front of his property. Certainly there are more users now than prior to public ownership and opening. The user levels increase during the winter months. Staff Actions:

- 1) Attended requested meetings to listen to issues (on site 3/25/2013 and at EPD Offices 5/2/2013).

- 2) Suggested planting vegetative screening.
- 3) Suggested neighbors stop removing existing screening vegetation on their property.
- 4) Suggested again that road be posted by the Island Field community as private to deter curious or lost drivers.
- 5) Placed signs along levee "Please respect the privacy, peace and quiet of our neighbors" as agreed to in meeting (Figure 8).
- 6) Installed more visible "No Dogs" signs.
- 7) Installed wayfinding signs indicating the direction of the parking area and exit and private roadways. Installed outside of FDOT RoW to work around FDOT restrictions/requirements.
- 8) Met on site with Mrs. Abruscato to help in locating appropriate posting locations for "No Trespass" signs.
- 9) Revised trailhead kiosk and Preserve brochure so that rules were expanded to read: "Be a good neighbor to our neighbors: Respect their privacy, Stay on marked trails, Park in the designated parking area, Stay off private roads."



FIGURE 8 SIGN ON TRAIL

F) Mr. Meisel has requested the County close the section of trail in front of his property; about ½ mile from the trailhead. This issue was raised in the BoCC meeting on 4/9/2013 (Agenda item 31, refer to video of meeting archived on the Video on Demand website. At that meeting, Mr. Meisel's concerns were raised by CHW, Inc. with a request for additional privacy signage, some traffic control signage, and a request to build a boardwalk to avoid using the levee. After a short presentation by staff, the BoCC decided not to change the Management Plan to build a boardwalk to eliminate the use of this trail (see Paragraphs G, H below). As the preceding shows, his other concerns have been addressed.

- G) Staff also continues to support the BoCC decision not to build a boardwalk (Figure 9) for several reasons:
- 1) Significant impacts to the marsh ecosystem.
  - 2) The boardwalk would be about ½ mile in length, extend into the prairie basin and would cost between \$365,000 and \$790,000 to construct. Estimates of longer term maintenance include complete decking replacement every 5 to 10 years and significant maintenance in the interim.
  - 3) Would require environmental permitting and mitigation which would add cost.
  - 4) Would require petitioning the federal government for a modification to the conservation easement.
  - 5) Would require FCT approve the boardwalk and its associated impacts to the environment.

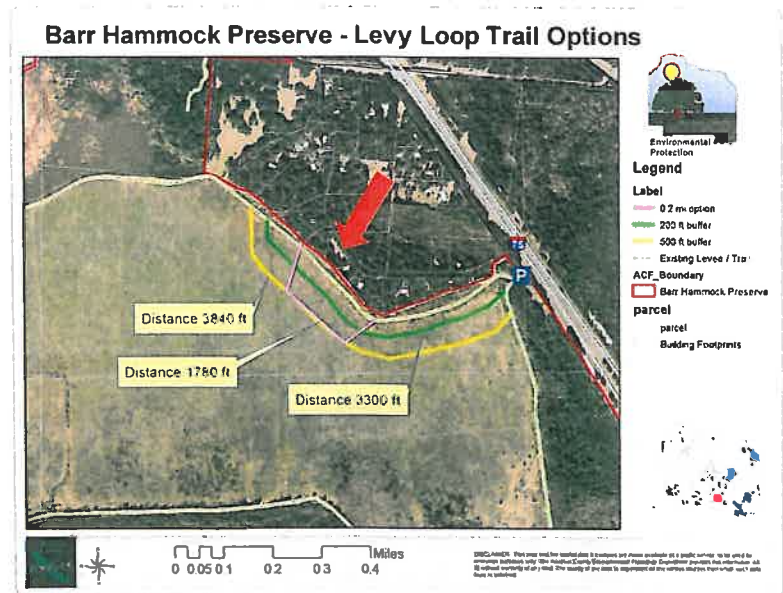


FIGURE 9 BOARDWALK OPTIONS AND MEISEL RESIDENCE (RED ARROW)

- H) Staff continues to support the BoCC decision not to amend the Management Plan and close the trail for the following reasons:
- 1) Levy Prairie remains a popular destination.
  - 2) As a loop trail, closing a section defeats the purpose of the trail system and requires the user to hike 6 miles one way to reach the same point, and 6 miles to return.
  - 3) A counter-clockwise hike past Mr. Meisel's property is the shortest way to view the open expanse of the wet prairie and wildlife.
  - 4) Enforcement of the closed area would be almost impossible for staff or ASO.
  - 5) It sets a precedent for all ACF Preserves, County Parks and Recreation Areas, and Community venues; one affected neighbor will compromise the ability of many people to use a public space.
  - 6) Complete closure of the trail may violate the FCT Grant Covenants and require the forfeiture of the \$2.4 million grant on the property.

- I) A vegetative buffer could be planted to insulate neighbors from the users. The County cannot plant vegetation on the levee itself as it may compromise its integrity, potentially affecting its primary functions of flood storage and water retention to protect downstream homes. The levee slopes end in submerged lands in which some kinds of wetland vegetation may be planted. This may block Mr. Meisel's view shed. Mr. Meisel may plant a buffer on his uplands, but that would also affect his view shed.



FIGURE 10 VIEW OF MEISEL HOUSE FROM TRAIL (4/23/2014)

- J) Last December, staff received an email from Ms. Abruscato requesting information on who to contact to get potholes in SE 11<sup>th</sup> Drive fixed. Staff provided FDOT contact to Mrs. Abruscato. FDOT crew patched potholes within approximately 1 week of her email. It is not clear to staff if there is consensus among the neighbors on whether SE11<sup>th</sup> Drive should be repaved. At one meeting some expressed the opinion that repaving would encourage speeding down the road making it hazardous for the residents.

