



BOARD OF COUNTY COMMISSIONERS

Natural Resources Management Department

2725 Judge Fran Jamieson Way
Building A, Room 219
Viera, Florida 32940

TO: Jim Liesenfelt, Interim County Manager

THRU: Tad Calkins, Assistant County Manager

FROM: Amanda Elmore, Deputy Director, Natural Resources Management Dept (NRM)

SUBJ: Citizen Efficiency and Effectiveness Recommendation #2025060

CEER #2025060, titled Brevard County Wetland Mitigation, was received by the County from Mr. Charles Broughton.

Citizen Statement:

Development within the county is eliminating green spaces for public use as well as impacts to wildlife.

Citizen Recommendation:

Brevard county should implement its own wetland / upland mitigation program to offset the net loss of green space LOCALLY. The program administered by FDEP is a joke and does not provide any benefits to county residents. Make developers pay into the EEL program or something similar to preserve wild lands.

Staff Analysis:

Environmental Review

NRM Environmental Resources Management (ERM) conducts environmental review of development activities on developed and undeveloped properties in unincorporated Brevard County. ERM assesses proposed development for compliance with 10 environmental protection ordinances including wetland, floodplain, aquifer recharge, and surface water protection. Development review includes site plans, subdivisions, and building permits, and other ERM-specific permits (e.g., surface water protection, small scale land clearing, and land alteration).

Except where the Florida Department of Environmental Protection (FDEP) exempts small wetland impacts from state Environmental Resource Permitting, NRM is pre-empted from duplicating tasks performed by FDEP, including the delineation of wetlands, the avoidance and minimization of wetland impacts, and the establishment of no-net-loss mitigation. ERM does regulate allowable land uses within wetlands through Chapter 62, Article X, Division 4, entitled Wetlands Protection. The Comprehensive Plan

and ordinance require "no-net-loss" of wetland function in the County, and establish standards for residential, commercial, and industrial development in and adjacent to wetlands. On rare occasions, wetland mitigation has been provided through the Environmentally Endangered Lands (EEL) Program. However, since Brevard County defers to FDEP to determine no-net-loss, most mitigation is provided through private off-site Mitigation Banks with or without on-site restoration and/or preservation and perpetual maintenance of any remaining wetlands.

For developers to provide wetlands mitigation through a County program, accepted by both the state and the County, Brevard would need to establish a state- and federally-permitted Mitigation Bank (Bank). Creating and managing a Bank would be an intensive process. This process is regulated under the state's Mitigation Bank Statute, 373.4136, and Mitigation Bank Rule, 62-342, and administered through FDEP and the St. Johns River Management District (SJRWMD). Banks are authorized by a state permit and by the U.S. Army Corps of Engineers as a Mitigation Bank Instrument. Both public and private entities are eligible to set up and operate a mitigation bank if they can show sufficient legal interest in the property to operate the Bank and can meet the financial responsibility requirements of the rule. Section 373.4136(1) establishes requirements for a Bank, including providing viable and sustainable ecological and hydrological functions, effective long term management, and achieving mitigation success. There would be significant difficulty and cost in demonstrating that the County meets these requirements, as well as funding the land acquisition and perpetual land management of a mitigation bank.

Parks and Recreation Department (PRD) Environmentally Endangered Lands (EEL) Program

The Board of County Commissioners (Board) bonded \$3 million for Parks and Recreation Department (PRD) Environmentally Endangered Lands (EEL) Program land acquisition. A variety of properties have been identified for future acquisition. These properties are a mixture of both wetlands and uplands and are primarily outparcels within or directly adjacent to existing conservation lands. EELs is in the process of hiring a contractor to pursue the acquisition of lands with the allocated funds. If the Board approves additional funds, the contractor will already be on board to carryout additional efforts.

Additionally, the EEL Program has been working diligently with the community since the mid-1990's to provide mitigation opportunities. EEL manages over 1,600 acres of conservation lands that have been directly donated or restored by the development community to offset habitat loss impacts caused by residential and commercial development. These donation and restoration projects have also included over \$750,000 in management fees that are used by the EEL Program to manage these lands into the future.

In 2010, the State legislature, at the urging of the private mitigation bank lobby, ended the ability of local government to allow the development community to perform wetland mitigation restoration projects on County lands that were acquired specifically for conservation. The development community is still able to donate lands for wetland mitigation and perform scrub habitat restoration on County conservation lands. The opportunities are ongoing.

Staff Recommended Action:

It is recommended that the Board of County Commissioners reject CEER #2025060 related to wetland and upland mitigation banking, as it does not enhance the effectiveness and efficiency of County government as required by Home Rule Charter as detailed in the staff analysis. Any legislative changes related to LID must be enacted through the ordinance adoption process and may be considered at the request of the Board of County Commissioners.

CC: Frank Abbate, County Manager

Horst, Rachel

From: CEER@brevardfl.gov
Sent: Wednesday, January 29, 2025 6:18 PM
To: Horst, Rachel
Subject: A new CEER Recommendation has been submitted as ID #2025060

Recommendation # 2025060

Dear CEER Administrator,

Speak Up Brevard Recommendation ID #2025060 has been submitted. Please login to the CEER Application to start the recommendation evaluation workflow.

Contact Information:

Group/Organization

Name Charles Broughton
Address 1780 BENJAMIN RD, MALABAR FL 32950
Phone (321) 609-0059
Email C.broughton.jr@gmail.com
Alternate Email

Recommendation Information:

Recommendation ID 2025060
Recommendation Title Brevard County Wetland Mitigation
Areas Affected
Department Affected
Current problem Development within the county is eliminating green spaces for public use as well as impacts to wildlife.
Recommendation Brevard county should implement its own wetland / upland mitigation program to offset the net loss of green space LOCALLY. The program administered by FDEP is a joke and does not provide any benefits to county residents. Make developers pay into the EEL program or something similar to preserve wild lands.
Attachments No Documents were attached.

Please do not reply to this e-mail, as it will go to an unmonitored mailbox.