

**Prairie Creek Park Scrub-Jay Action Committee**

**A Review of the  
Charlotte County Florida Scrub-Jay Habitat Conservation Plan**

**Findings and Recommendations**

**For Presentation to the Charlotte County Florida Commissioners**

**Public Forums and Workshops conducted**

**February 15, 22, and March 1, 2018**

**March 2, 2018**

## Introduction

The Prairie Creek Park Scrub-Jay Action Committee hosted three workshops to review and critique the Charlotte County Scrub-Jay Habitat Conservation Plan (HCP). The attendees were residents of Charlotte County, and reflected a range of experiences and perspectives with this issue. Draft recommendations from each of the meetings were reviewed, revised, and finalized, with 15 individual proposals that accurately reflect the group's conclusions. The 15 recommendations are presented in descending order of priority.

This workshop panel is fully aware that each of these recommendations differ in terms of their impact on cost and the time necessary for consideration and ultimate implementation. Some recommendations may be quickly handled with virtually no effect on the County's existing administrative and staffing structure, and with no additional costs required. Others may require more extensive planning and levels of increased funding to fully implement.

More broadly, the panel understands that the County is constantly faced with many competing priorities for the use of its finite financial resources, and the need to balance the public's interests among a much larger inventory of important community issues beyond the HCP. As an example, Recommendation # 4, **'redefine and expand the base for revenue to support the HCP,'** may be better understood and approached over a longer horizon to allow other, more immediate County priorities to be finished, and for the County to confirm potentially more improved economic conditions that, at this present time, simply are not fully developed and their total impact is not clear. This serious 'reality-check' may result in consideration of the value of a few recommendations for strengthening the HCP, and their implementation being extended across a longer period of time.

However, beyond these obvious implementation issues, the Panel strongly urges the County's continued consideration and prompt adoption of each of these individual HCP improvements to bring the much-needed relief to County property owners from the on-going financial burdens they presently carry, and enhance the potential for the Florida Scrub-Jay's survival and proliferation.

### Recommendation # 1:

***The Scrub Jay Action Committee recommends the County aggressively pursue density based funding.***

Review the steps taken with US Fish and Wildlife Service (USFWS) since the original County submission February 16, 2016, to have Federal approval of revisions that significantly reduce the current HCP fees required of property owners based on the size of their property, with 'density-based' methodology.

Explanation:

- Pursue additional steps to gain approval after the present two-year delay by USFWS in approving the County's proposed revision to HCP (Section 5.4.3.1, Table 5-10, Development Fees by Acreage Tier).
- This application proposed to move from the current acreage based system that imposes fees on planned development by individual property owners based on the size of their property<sup>1</sup>, to a

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<sup>1</sup> The current Fee Schedule (Table 5-10: HCP Development Fees, by Acreage Tier), provides an unreasonable fee increase and differential distinction among each of the acreage tiers. The severity of these fee differences,

'density' approach, based on the density of each parcel as determined by current zoning designations, assumptions and implementation explanations.

- According to the February 16, 2016 correspondence from Tina Powell, Parks and Natural Resources Manager with Charlotte County, "the bottom line fee change would be \$2,004/unit..." on larger (3-10 acres) properties, reducing the fee for 5.1 – 10 acres by \$74,696.
- Ms. Powell's letter goes on to describes alternative approaches the County could take, to offset any negative impact these fee changes/reductions might have on the County's ability to acquire lands for its Reserve program.
- Additionally, correspondence from USFWS<sup>2</sup> dated September 17, 2017, states that a response to the County's requested changes would be forthcoming. Yet after five months, there is still no response.
- After more than two years, the status of this proposed revision is still uncertain, and greater priority and emphasis by the County should be given to having this request resolved favorably, and promptly.

## **Recommendation # 2:**

**The Scrub Jay Action Committee recommends the County develop additional land acquisition options for the Reserve plan.**

Develop additional options for adding, or acquiring large contiguous tracks of land to be included in the overall Scrub-Jay Reserve area.

Explanation:

- Increase existing County Reserve areas with the acquisition of some 1,300 acres of agricultural land on north and east sides of Prairie Creek Park, providing for the County's direction and control, and ability to convert and restore the greater portion of this acreage, an estimated 1,092 acres, to scrub habitat over time.
- Expand consideration of land areas eligible for County Reserve for scrub-jay habitat. For example, the HCP describes in Section 2.1.1, Land Use / Vegetation Communities, the Webb Wildlife Management Area and Babcock Ranch Preserve, each a large public land located in the eastern portion of the County, and combined, providing some 134,996 acres of flatwoods and wetland systems offering favorable habitat suitable for maintaining the scrub-jay population.
- Pursue the use of other large, contiguous tracks of land, and reduce the need for the HCP's current strategy of managing piecemeal parcels, and imposing conservation easements on small, scattered individual properties. Large tracks such as the County current consideration east of Prairie Creek Park provide for many economies of scale and scope to meet and potentially exceed its objectives in overall acreage dedicated to this purpose, and provide an opportunity

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although progressive, imposes a prohibitively expensive, and onerous penalty on owners of larger tracts of land for the normal and routine purchase and use of their properties.

<sup>2</sup> The letter from the US Fish & Wildlife Service dated September 27, 2017, Assistant Regional Director Leopoldo Miranda responded to Rick Kilmer's original correspondence to the Secretary, U.S. Department of the Interior, the Honorable Ryan Zinke, dated June 14, 2017. In his letter, Mr. Miranda states, "After the County's ITP was issued in 2013, the County began receiving additional feedback from its residents about the economic impact of the permit, and requested an amendment to its ITP from the Service... We are currently reviewing this proposed amendment as expeditiously as possible, and expect to make it available for public comment in the near future."

through County-controlled maintenance programs to achieve the desired environment needed to support and sustain scrub-jay wildlife.

- Consider potential commercial properties located in selective locations that may provide additional opportunities for increasing the County's Reserve areas. For example, a former agricultural, or grove land properties such as the 175-acre track located just west of the Prairie Creek Park development, could be considered as a candidate property for the County's Reserve acquisition.
- The several individual and smaller acreage Reserve areas currently maintained, are in sharp contrast to the potential for better control and maintenance of the habitat needed for scrub-jay proliferation in especially large, contiguous areas. Accordingly, the County should consider negotiating access to larger parcels of land where the County would have more direct control through a consolidated approach with issues such as the biological maintenance requirements like burning to foster the best possible environment for these protected wildlife.

### **Recommendation # 3:**

***The Scrub Jay Action Committee recommends the County aggressively pursue alternative funding sources such as grants.***

Evaluate its efforts since the HCP was implemented by the County, to successfully identify and apply for revenues in the form of grants from Federal, State, and other local sources, and where effective, establish this as a high priority in the future with appropriate staffing and support.

Explanation:

- Section 5.4, HCP Funding Program, describes the County's intention to seek grants, and other related funding sources to underwrite the administrative and operational costs of the HCP during its first five years.
- Make available to the public the current status, including information on the number, and the amount of grants that have been successfully received over the past five years, and how they have been used to support the HCP objectives.
- Based on the County's results in applying for grants and the amount of funding received, it should aggressively identify ways to expand this option, and apply for grant sources and amounts to further reduce the current burden imposed on property owners, and offset administrative, overhead and operational expenses needed to support the HCP.
- The *Florida Forever Program* is noted as an excellent example of how this grant process has worked successfully in other areas.

### **Recommendation # 4:**

***The Scrub Jay Action Committee recommends the County redefine and expand the base for revenue to support the HCP.***

Revise the current strategy for revenue generation in support of the HCP, expanding the base to all county residents through a property tax millage proposal.

Explanation:

- The current HCP strategy outlined in Section 5, and the proposed revisions to these published fee schedules now pending with the USFWS, should be compared with an alternative approach that expands the base of revenue generation across all county residents through the millage process, and property tax assessments.
- The investment in the future of the scrub-jay population is one that we all bear, and should not be imposed on a small component of the County's residents.
- Consider having the HCP support treated in a similar manner as, for example, the current assessments for environmentally sensitive lands, and the west coast inland navigation.
- All county residents enjoy the benefits of the important varieties of wildlife here in southwestern Florida. Accordingly, it seems reasonable that we all share in the responsibility to protect this important variety of our environment.
- An appropriate shift in this responsibility now handled by a small number of property owners, to a much larger base, allows all to benefit, both in the overall outcome, and with a small individual cost spread across all property owners.
- This particular recommendation was endorsed in correspondence from Assistant Regional Director for Ecological Services, USFWS, in his letter dated September 17, 2017<sup>3</sup>.
- Although the current status of income received from fees for the past five years is not available to the public, if it should be found that these levels are both below expected income, and received in an inconsistent manner, annual property assessment would correct this funding gap and timeframe, and assure that the HCP has funds available in sufficient levels, and received in a predictable manner each year.

#### **Recommendation # 5:**

***The Scrub Jay Action Committee recommends the County develop incentives to encourage voluntary participation by private property owners.***

Develop a variety of devices to incentivize private property owners to participate with the general habitat environment, biological requirements for scrub-jay proliferation, and other scientifically approved methods to promote population increases.

#### **Explanation:**

- Existing HCP provides for a negative, or punitive approach to the use of privately owned property and owners, through imposition of excessive fees and easement requirements.
- The County should review its options, and develop positive incentives that offer financial benefits for individual property owners, for example, through tax abatement programs to encourage both immediate and long-term HCP compliance, the desired habitat, maintenance, and overall environment necessary for sustaining the resident scrub-jay population.

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<sup>3</sup> The letter from the US Fish & Wildlife Service dated September 27, 2017, Assistant Regional Director Leopoldo Miranda responded to Rick Kilmer's original correspondence to the Secretary, U.S. Department of the Interior, the Honorable Ryan Zinke, dated June 14, 2017. In his letter, Mr. Miranda states, "Some of the options available to the County include spreading costs over all or a larger portion of its residents than just those in scrub-jay occupied habitat, structuring costs based on lot size or the number of units that can be constructed on a parcel, or reducing costs by restoring land they already own."

#### **Recommendation # 6:**

***The Scrub Jay Action Committee recommends the County report the progress, current status of goals and accomplishments.***

Consistent with the HCP, provide regular updates describing such areas as funding received and spent, and its overall progress in achieving its stated goals.

Explanation:

- Section 4.5, Monitoring and Reporting, describes annual reporting over the 30 year plan. Other references to monitoring and assessments describe reports submitted by May 15. Under sub-section "Scrub-Jay Monitoring," the annual conduct of surveys of scrub-jays within portions of the Reserve are mentioned, with the entire Reserve covered by these cumulative results each five years. Under sub-section "Parcel Acquisition," status evaluations are described as conducted at years 2, 4, 6, and every 5 years thereafter.
- Recently, public 'audits' were shared in a local meeting, however it was not clear if these were the result of the stated program updates, or an additional output to those noted in the HCP.
- The levels of funding received from fees and other assessments since 2013 should be readily available to the public, and if these are proving sufficient to offset costs for property acquisition for County Reserve areas.
- Timely and accurate reports are desirable, as they are important to ensure the transparency of this public program, and for the public to understand the overall progress being made by the County with its efforts to reverse the pattern of decline among the scrub-jay population.
- More broadly, there is a growing level of public interest if, after five years of experience, there is tangible evidence that our efforts are, in fact, yielding the results we seek - the preservation of the scrub-jay population here in the County.

#### **Recommendation # 7:**

***The Scrub Jay Action Committee recommends the County improve public access to Information.***

Ensure that all reference information and supporting documentation referred to in the HCP, including appendices, figures, citations, and supporting websites, maps, and other sources are maintained in a current, and accurate manner, and made readily available to the public

Explanation:

- Efforts by the public to find the supporting information and documentation referenced in the HCP can be difficult, and is not readily available, even after efforts to contact the County directly.
- As the public has greater access through the use of the internet to conduct its own research directly with government sources on subjects such as the HCP, these references should be available and current to all county residents.
- Maintain, keep current, and up-to-date all references and supporting data about the HCP progress towards meeting its goals.

- Consolidate and provide in one central location on its web site the range of information on the County's activities with the HCP, habitat development and maintenance, permitting requirements for development, and the overall Scrub-Jay program status.

**Recommendation # 8:**

***The Scrub Jay Action Committee recommends the County reconstitute a Technical Advisory Committee.***

Reconstitute a new Technical Advisory Committee (TAC) with responsibilities similar to the originally TAC, to advise the County regarding the HCP, and its overall viability, effectiveness, and success.

Explanation:

- The County organized a TAC in its preparation for the current HCP, with representation from County, private consultants/contractors, the USFWS and others. Over a four year period prior to the release of the current HCP, Section 1.2.1 describes that this panel's input was "sought as part of each major step of project development."
- Once again, identify a panel with members representing a range of experience and expertise to evaluate the current HCP, its technical, biological, managerial, and overall success in stemming the past patterns of decline within the scrub-jay population in the County.
- Representation on this TAC panel should include expertise from:
  - Land Planning
  - Land Development
  - Economics
  - Property ownership
  - Real Estate
  - Ecology
  - Scrub-Jay habitat assessment
  - Combined Environmental and Legal (attorneys)
- Additionally, representatives from the following areas should also be considered:
  - State and Federal conservation management areas working directly with scrub-jay issues
  - Local, State and Federal political leadership
  - USFWS
  - Audubon Society
  - CHEC
  - Archbold Biological Station

**Recommendation # 9:**

***The Scrub Jay Action Committee recommends the County use County GIS to identify scrub-Jay presence by parcel.***

Revise and update the County's current Geographic Information System (GIS) to allow the precise designation of individual parcel where the scrub-jay population is known to be resident.

Explanation:

- Currently areas defined as ‘scrub-jay’ are identified by a color overlay on the County map, and available to the public through the County’s web site. The current system will show the location of a specific address entered, revealing if it is in or out of the current definition of ‘scrub-jay’ areas.
- However the current system does not accurately identify the precise location of known scrub-jay populations.
- Revise and update the current overlay map, based on the most readily available scientific and scrub-jay survey information, to more precisely reflect those properties where scrub-jay presence is verified.

**Recommendation # 10:**

***The Scrub Jay Action Committee recommends the County grow and repopulate Scrub-Jays within Reserve areas.***

Consult with, and seek guidance from the broad scientific community regarding the viability and potential for establishing an ‘incubator approach’ to growing scrub-jays in a controlled and protected environment for their eventual translocation into their natural and normal habitat.

Explanation:

- Evaluate the extent to which scrub-jay translocations have been effective in establishing its presence in newly acquired habitat.
- Determine the potential for successfully propagating and growing scrub-jays in a safe and protected environment, and when sufficiently strong, both in numbers and maturity, translocate to County-controlled Reserve areas.

**Recommendation # 11:**

***The Scrub Jay Action Committee recommends the County account and clarify the Reserve acreage.***

Provide an accurate accounting of the land areas and acreage presently held in ‘reserve’ for scrub-jay habitat management and control.

Explanation:

- There are several references<sup>4</sup> to acreage dedicated to a ‘Reserve’ throughout the HCP. Each reference is defined in a different way, and for a different purpose, which is subject to some misunderstanding, and complicates an accounting of the County’s current status in both

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<sup>4</sup> In the Executive Summary, 4,500 acres is described as the approximate acreage it seeks to acquire and maintain over the 30-year HCP. Section 4.1.2, Biological Objectives, Objective #2 states “acquire a minimum of 1,300 acres as identified in the Reserve.” Section 4.2.2 confirms these acreage numbers, stating “...with the goal of acquiring an additional 1,336 acres of prioritized habitat over the life of the permit, totaling 4,496 acres. Section 4.6, Long-Term Management Plan describes eleven existing public conservation lands, with acreage totaling 3,845.5 acres. Section 5.1.3, Proposed Scrub-Jay Reserve, describes the overall size of the proposed Reserve is 4,496, including both public and private lands, primarily in eastern Charlotte County, of which the private land portion totals approximately 1,336 acres.



acquiring, and maintaining an environment suitable for the scrub-jay overall population stability and growth.

- Account for its effort to meet its stated goals of 4,500 acres dedicated to the Reserve.
- Additionally, clarify the current progress in acquiring and maintaining 1,300 acres to be added to existing Reserve lands.

**Recommendation # 12:**

***The Scrub Jay Action Committee recommends the County establish a “Citizens Group.”***

Establish a ‘Citizens Group,’ made up of representative local county residents, who provide a unique source of information, first-hand experience and feedback to assist the County’s efforts to administer HCP, including its evaluation of its effectiveness, and make recommendations for improvements.

Explanation:

- Public efforts to provide feedback to the County on their concerns over with the HCP has been viewed as difficult and complicated over the past five years since the HCP was first issued.
- Organize a ‘citizen’ forum where county residents may raise their questions and concerns with the HCP, and provide constructive feedback and suggestions for improving its effectiveness in sustaining the scrub-jay population.

**Recommendation # 13:**

***The Scrub Jay Action Committee recommends the County determine a quantitatively accurate and solid scientific basis for HCP priorities.***

Conduct a thorough review of the present HCP, with the purpose of updating and amending its strategies and objectives and ensure that the HCP reflects and conforms to accepted scientific principles and approaches for sustaining Scrub-Jay population, and defining current and potential habitat territories.

Explanation:

- The HCP describes in considerable detail the important steps the County is undertaking to provide suitable areas for a sustained scrub-jay population, including provision for amounts of land, the treatment and maintenance required for that land to provide appropriate habitat characteristics, and an estimate of the related costs associated with this approach going forward.
- Authenticate these important strategies through the use of strong scientific input. For example, the HCP makes several references to surveys of scrub-jay populations, each of which are drawn from data sets and surveys conducted some time ago. Section 2.3.2, Biological Overview of the Scrub-Jay, also references efforts to establish population inventories that date back to 1987.
- Increase both the number and frequency of surveys to update the population information on scrub-jay overall presence, and provide more up-to-date indication of its population levels and strength in sub-County, local areas, to guide the County’s efforts to both define its direction to

protect this uniquely Florida species, and allocate public revenues on its behalf. (Other references to habitat requirements are discussed in Recommendation # 15 below.)

**Recommendation # 14:**

***The Scrub Jay Action Committee recommends the County review the current HCP for consistency of treatment to applicants.***

Ensure in coordination with USFWS, and within County government, that all County residents who make application to develop and improve their properties receive a consistent descriptions of options available to them, and steps to take.

Explanation:

- Public efforts to contact the County, and/or USFWS regarding the steps necessary to comply with the HCP encounters a range of, sometimes confusing and conflicting information.
- References such as the USFWS, South Florida Ecological Services Field Office Bulletin, titled “Florida Scrub-jays in Charlotte and Sarasota Counties,” cites the need to “check with a professional environmental consultant about the scrub-jay situation in your area.” However, this information is not immediately available in the HCP.
- Compliance requirements, and permit application requirements and costs have changed significantly over the years of county resident experiences that goes back before the HCP was issued.
- The County website notes, under the HCP Permitting, that the properties that are located within the Plan Area, have 2 options, as the County’s HCP is ‘not mandatory.’
- Public experiences relate a level of confusion because of the inconsistent procedures and steps, and the variety of outcomes individuals experienced, all of which added to their uncertainty about what was required to improve their properties. This seems to still be true in some cases, now, even with the HCP in place.
- This range of treatments and experiences shared by individuals who have attempted to work through these steps, suggests a need for further clarity and focus to ensure each property owner’s application has a reasonably high degree of predictability for what they experience, and the outcome they seek, and that all who attempt to make property improvements may do so at reasonable costs, and in a timely manner.

**Recommendation # 15:**

***The Scrub Jay Action Committee recommends the County revise and update particular land maintenance strategies.***

Review, and amend its strategies for Reserve Management in the area of burning, to reflect the difficult challenge of balancing and blending its priorities with both public and privately owned properties.

Explanation:

- There are several references in the HCP to the plan's intention to follow prescribed, or preferred approaches for maintaining habitat areas in both the County-controlled, and privately held Reserve land areas.
- One reference in particular, Section 4.6.3.1, Burn Plan, describes an aggressive approach to using burn cycles extending between five and twelve years to prevent the Reserve areas from vegetation height and density overgrowth. While other references note slightly different cycles for this goal, there is a reasonable public interest in the current status of these efforts.
- In particular, where and how has this strategy been employed, and how has its success been measured. Owners of private properties that are adjacent to Reserve lands have concerns about how effective these strategies have proven to be in practical terms, and what alternatives have been developed to ensure the Reserve land is being maintained in the most optimal manner for the benefit of the resident scrub-jay population.

## Conclusion

We are very grateful to the following participants for their important contribution to this review process, and the Prairie Creek Board of Directors in association with the greater community for its continuing support for the scrub-jay's future in Charlotte County, Florida.

### Prairie Creek Park Scrub-Jay Action Committee:

Deborah Barker   Greg Garvey   Jacqueline Gerue   Chan Holly   Dianne Hughes  
 Sandi Hussey   Janet Laird   Robin Peshaw   Michelle Roth   Steve Roth   Ellis Vaubel

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Dwight Dean, Co-Chair

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Rick Kilmer, Co-Chair

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 Prairie Creek Park POA Board of Directors