

Brevard has no money to care for the land we saved

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Conservationists twice persuaded Brevard County voters to tax themselves to protect green space forever —with taxes that ultimately expire. Now, they plan to ask voters to pay again, this time to maintain land bought with the original money.

When Brevard voters, by wide margins, OK'd local property taxes in 1990 and again in 2004 to buy and manage green space, critics warned about the costs of long-term maintenance of so much public land.

Those warnings have become reality.

The county used the tax money to finance the purchase of 24,000 acres to protect in perpetuity, but it did so without a permanent funding source to maintain the land.

Now, a standoff between Brevard's Environmentally Endangered Lands program and Clerk of Courts Scott Ellis —who acts as the county's comptroller —could speed up an inevitable maintenance fiscal cliff. As a result, EEL education centers would open less often, habitat for threatened species would degrade, and the areas between houses and EEL lands would grow increasingly flammable as the county-owned land becomes overgrown.

That could put an estimated 500 homes near EEL lands more at risk from wildfires, such as the June 2010 blaze at EEL's Cruickshank Sanctuary in Rockledge. More than 20 families evacuated when the brush fire came within feet of their Chelsea Park homes.

But EEL funding for prescribed fires and other operations is either tied up with the clerk's office or soon to run out.

EEL issued bonds to raise \$88 million, and pledged the revenue stream from the taxes to repay the bonds. Any excess could go toward operations and maintenance, such as prescribed fires and salaries. Commissioners in the 1990s had planned to gradually transfer such management costs to the county's general fund. That never happened.

So when one of the two local property taxes for EEL expired in 2011, county officials wanted to use \$3 million left over from the initial referendum and other sources for basic operations. But Ellis won't transfer the money. He says it can be used only to buy land or for capital projects.

“There are some serious implications,” Brevard County Parks Director Jack Masson said. “The mission of the EEL program would be seriously, seriously impacted if this transfer is not allowed.”

County Attorney Scott Knox and the law firm that advised the county on the bonds say using the funds for operations and maintenance is OK under state and federal tax law, as long as the bonds have been paid off, which they have.

Each side of the issue has asked the other for case law or legal opinions to back up its arguments. Both sides have done so, but disagree on what's relevant to Brevard's situation.

If Ellis does not transfer the money, EEL officials say they would run \$300,000 short this year. But the program also faces a longer-term maintenance funding deficit.

Ellis, a former county commissioner and longtime critic of EEL, says the program bought too much land at inflated prices during the housing boom, and did not plan sufficiently for the long term. EEL typically splits the cost of buying land with the state, which holds title to the lands, but not the maintenance responsibility.

“They never had a maintenance plan,” Ellis said. “And as far as using this money now, it's a one-time stopgap if they did use it this way, because you still have to pay the same operation and maintenance next year, and you won't have debted money to use.”

The remaining EEL tax is about 20 cents per \$1,000 of taxable value. So a homeowner with a taxable value of \$100,000, after exemptions, pays about \$20 per year to EEL. Homeowners paid twice that before the other EEL tax expired in 2011.

“It's only 11 years until the second referendum expires. That throws EELs at the mercy of the general revenue process,” said Doug Sphar, chairman of the EEL Recreation and Education Advisory Committee.

EEL tax revenue for operations has plummeted from \$3.2 million in 2007 to about \$1 million this year. EEL had budgeted \$1.4 million.

Sphar's committee plans to ask county commissioners to explore putting another referendum on the ballot. This tax, if approved, would be specifically for operations and maintenance. County officials have yet to specify how high a tax rate would be needed, but said it would be lower than the rate that just expired, because it would not likely include buying more land.

"The sentiment is that there should be a referendum," Sphar said. But he said the vote probably should wait a year.

"The economic climate is still kind of marginal for that type of thing," he added. "2014 probably would be appropriate."

Another EEL referendum might have to compete with county schools, also expected to ask for a tax hike in 2014 to prevent more school closings.

Most of the money Ellis has held up, \$2.7 million, is from interest earnings on unspent borrowed money. There also is almost \$370,000 in reimbursement funds from the Federal Emergency Management Agency for storm damage repairs to a caretaker house on the Maritime Hammock Sanctuary in Melbourne Beach, and \$260,600 left over from the sale of 52 acres of EEL property near Space Coast Regional Airport. EEL sold that land because it was too small to be valuable scrub habitat, and because surrounding lands slated for development could not be acquired.

Unforeseeable downturn?

EEL officials said few could have predicted the drastic drop in the county's property values after the housing crash.

Ellis did.

In 2008, EEL bought 1,500 acres in Scottsmeer for more than \$21 million, or about \$14,000 per acre. The cost for that purchase had decreased by \$3 million, after commissioners —at Ellis' urging —asked for new appraisals to reflect falling real estate values.

A decision in 2009 to spend \$2 million for 188 acres in Malabar to help scrub

jays rekindled concerns among critics over what EEL was paying. They said EEL was still overpaying, especially considering the tight budgetary times. EEL takes too much property off the tax rolls, they contended, and should have held out for better deals as the real estate market collapsed.

A review of purchases since 2006 shows that the price per acre for environmental lands varied widely: from \$6,514 for each of the 147 acres near the Ulumay Sanctuary on Merritt Island in July 2008 to \$92,672 per acre in December 2007 for 11.6 acres next to the Cruickshank Sanctuary in Rockledge.

EEL only once paid more than the appraised value, for the Thousand Islands in Cocoa Beach. That was a directive from then-County Commissioner Ron Pritchard. The county paid \$4.4 million in two land deals that totaled 338 acres.

In 1990, about 61 percent of Brevard voters approved the EEL program, allowing up to \$55 million in bonds to buy and maintain land, and develop recreation and environmental education centers.

During the housing boom, EEL officials said they needed more cash on hand to buy the most important habitats before they filled with development. So, in 2004, by a 69 percent majority, voters approved borrowing another \$60 million for EEL over 20 years.

In total, EEL borrowed about \$88 million. The program still could borrow \$15 million, the remaining amount allowed under the 2004 referendum, but the current tax rate would not be enough to even pay off the debt.

In fact, two years ago, EEL retired about \$4 million in bonds early, to cut its annual interest payments.

Biologists said Brevard needed to keep buying the most important habitats, such as scrub, pine flatwoods and oak hammocks, to create corridors that connect existing conservation lands. They said wildlife needs such connections for long-term survival and they targeted about 70,000 acres for conservation.

EEL officials say the program already runs lean, employing 28 people, down from 39 employees at its staffing peak in 2006.

“We’re already operating at a pretty extreme deficit,” EEL Director Mike Knight said.

Any further cutbacks would mean less maintenance of the land EEL already owns.

The current funding freeze jeopardizes \$5 million in state grants spent over the years to restore scrub habitats on EEL lands. Those lands could overgrow within three to five years, officials said. Habitats would grow unsuitable for Florida scrub jays and other scrub species the program was intended to preserve.

“There was definitely an understanding that this issue was coming,” Knight said. “The bottom line is ... if we don’t maintain our fire cycles, then those food sources and that vegetation is not going to recover properly.”

Scrub land needs to burn often, or shrubs and exotic species take over and threatened gopher tortoises and scrub jays leave —until there is no scrubby place left to go. Then those species perish.

The lack of prescribed burns would endanger more than birds and tortoises. Increased vegetation on EEL land means more fuel for wildfires. That would put any adjacent properties in greater danger, which would be magnified by the lack of firebreaks typically cut as part of controlled burns.

Florida scrub jays —the poster child of the EEL program —can’t recover without long-term habitat maintenance, according to Dave Breininger, a biologist who sits on the EEL Selection and Management Committee.

“Every time there’s a delay in acquisition or management, it results in habitat getting degraded, species headed toward extinction, and it becoming harder and harder to bring all that back,” Breininger said.