

**Conservation Collier**  
**Policy Options for Security and Liability Issues on Sites Not Yet Open to the Public**  
**April 2007**

**Purpose:**

The purpose of this summary is to offer policy options for security and liability issues on Conservation Collier preserve sites not yet open to the public.

**Problem Statement:**

The Conservation Collier Program Staff and Committee Members are concerned that we may be faced with liability issues if members of the public trespass on our preserve sites before we are able to install safe parking areas and trails to provide safe access. We may also face other issues such as homeless camps, vandalism, dumping, resource looting, wildfires, and off-road vehicle use all which may be detrimental to our native plant communities and wildlife.

A legal opinion was given to staff by the County Attorney's office which stated that trespass is defined by 810.09 of the Florida Statutes as: a person who, without being authorized, licensed, or invited, willfully enters upon or remains in any property other than a structure or conveyance as to which notice against entering or remaining is given either by actual communication to the offender or by posting, fencing, or cultivation as described in § 810.11, Florida Statutes.

In order to meet the *posting* requirements of § 810.11 (5)(a), Florida Statutes, signs must be placed not more than 500 feet apart along and at the corner of the boundaries of the land. The signs must be placed along the boundary line of the posted land in a manner and in such a position to be clearly noticeable from the outside boundary line. On the sign must appear prominently, in letters of not less than 2 inches in height, the words "no trespassing" and the words "Collier County."

Property may be fenced *without* posting. In order to meet the *fencing* requirements of § 810.11(7), Florida Statutes the Property must be enclosed by a fence of substantial construction which stands at least 3 feet in height. A boundary or part of a boundary of land which is formed by water is not required to be fenced.

Whether Collier County chooses to post or to fence a particular property may depend on the size, terrain, and location of an individual parcel. In any event, if land is not posted or fenced as stated above, a criminal trespass prosecution will not be successful.

**Potential Courses of Action:**

1. Create an official policy that all sites unless formally opened are not yet open to the public.
2. Install no trespassing signs every 500 feet and at each corner of the property at every site and / or install fences around the perimeter of the properties both options as required by the FL statutes. We would also continue to work with the sheriff's office on enforcement measures.

3. Create friendlier signage that may state “Conservation Collier Site in Restoration Phase” or “Site not yet open for public access...all plants and wildlife protected, environmental hazards may exist, people without authorization from staff will be considered trespassing and will be subject to removal and arrest.” We would ensure the required legal posting information is listed as well.
4. Create official categories of public uses for all preserve sites similar to Lee County (see attachment). For example: Category One Site: open for public, easily accessible, ADA Trails, bathroom facilities, boardwalks, picnic tables, daily staff presence etc. or Category 4 site: does not provide regular public access, site still in restoration phase, no road access or all mangroves) no facilities or marked trails offered, where there is public interest call our office for staff may provide guided tours. Create a brochure with a map of all sites for the public and update as sites status changes.
5. Do not post properties unless problems arise. Some agencies feel that they face more problems with trespassing when their sites are posted. Our own parks and recreation department do not fence or post all properties unless they run into problems.
6. For trespassing homeless individuals: work with the Collier County Sheriff’s Office Community Oriented Policing Unit to work with these individuals and assist them in finding alternative places to live.
7. For trespassing homeless individuals: (Get BCC approval for this process) if this is encountered, notify community support services. Also, leave a notice for them that will inform them of a 72 hour notice to leave and take all belongings with them and also provide them with a list of shelters or places to go for assistance. The Sheriff’s office may need to accompany staff to post. Photograph the notice when posted on site. (Example attached, Alachua County). Other counties have found it less costly to make attempts to have them remove their own belongings for obvious reasons.
8. For program supporters who desire access, set up a partnership with local non-for-profit groups like Audubon or the Conservancy to give guided tours. The public would possibly be covered under their umbrella insurance policies if they are members of these groups or they can require them to sign a legal waiver entering at their own risk.
9. Staff could also offer quarterly guided tours until sites are officially opened. Public can sign a waiver already approved by the BCC that will allow them to tour the site accompanied by staff and would be entering at their own risk. (On October 25, 2005, the Board of County Commissioners (“BCC”) approved the use of the attached *Access Request and Release* form and authorized the County Manager or his designee to sign *Access Request and Release* forms in the future. This means that the *Access Request and Release* form can be slightly revised to include the purpose of the site visit and used without further action by the BCC. In the instant case, our legal staff recommends that all references to research related activities be revised to “staff guided walking tours” or the like.
10. Hire permanent enforcement staff to patrol the sites as other counties in FL have.

**Staff Recommended Course of Action:**

1. Staff suggests that on a site by site basis, use some or all of the potential courses of action listed above. Friendlier signage is preferred.
2. Contact Environmental Agencies to determine if they would be able and willing to give tours of our sites before and after they are officially open.

**Lands Evaluation and Management Subcommittee Recommendations:**

1. Attempt to work with the Collier County Sheriff's Office Community Oriented Policing Unit to work with any homeless individuals and assist them in finding alternative places to live.
2. Post properties with friendly signage that may state "Conservation Collier Site in Restoration Phase" or "Site not yet open for public access...all plants and wildlife protected, environmental hazards may exist. Contact Conservation Collier Office at this number for access." We also would ensure the required legal posting information is listed as well.
3. Deal with all other issues on a site by site, case by case basis.