

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

IN RE: PETITION TO ESTABLISH)
THE TIMUCUAN COMMUNITY)
DEVELOPMENT DISTRICT) Case No. 07-0577
_____)

REPORT TO THE FLORIDA LAND AND WATER ADJUDICATORY COMMISSION

Pursuant to Section 190.005(1)(d), Florida Statutes, a local public hearing was conducted on April 19, 2007, before Charles A. Stampelos, an Administrative Law Judge of the Division of Administrative Hearings (DOAH), at City Hall, St. James Committee Room B, 117 West Duval Street, in Jacksonville, Florida.

The hearing was conducted for the purpose of taking testimony and public comments and receiving exhibits on the Petition of Timucuan-MLC, Inc. (Petitioner), to establish the Timucuan Community Development District (District). This Report of the public hearing and the hearing record is made for the consideration of the Florida Land and Water Adjudicatory Commission (Commission) in its determination whether to adopt a rule to establish the District.

APPEARANCE

For Petitioner: Jonathan T. Johnson, Esquire
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Post Office Box 6526
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STATEMENT OF THE ISSUES

The issues to be addressed are whether the Petition to establish the District meets the factors set forth in Section 190.005, Florida Statutes, and whether the hearing process has been conducted in accordance with the requirements of Section 190.005, Florida Statutes, and Florida Administrative Code Chapter 42-1.

PRELIMINARY STATEMENT

On January 4, 2007, Petitioner filed its Petition to establish the District with the Secretary of the Commission. Petitioner provided a copy of the Petition and its attachments, along with the requisite filing fee, to the City of Jacksonville (City). A copy of the Petition, including its attachments, as amended and revised, was received into evidence as Petitioner's Composite Exhibit A.

On January 31, 2007, the Clerk of the Commission certified that the Petition and supplemental information contained all required elements and forwarded the Petition to DOAH for the purpose of holding the local public hearing required under Section 190.005(1)(d), Florida Statutes.

Petitioner published notice of the local public hearing in accordance with Section 190.005(1)(d), Florida Statutes.

The land to be included within the proposed District is located entirely within the boundaries of the City. Section 190.005(1)(c), Florida Statutes, provides that the county and the municipality containing all or a portion of the lands within the proposed District have the option to hold a public hearing within 45 days of the filing of a petition. The City opted not to hold a hearing.

At the local public hearing held on April 19, 2007, Petitioner presented the testimony of Mitchell Montgomery, president of Montgomery Land Company, the sole shareholder of Petitioner; William B. Moriarty, an expert in civil engineering; Stephen J. Stewart, an expert in state and local comprehensive planning; and Darrin S. Mossing, an expert in economic analysis and special district government. Petitioner's Exhibits A through Q were received into evidence at the hearing. No members of the public or persons other than Petitioner's counsel and witnesses made comments during the public hearing.

After the close of the public hearing, the record was left open for ten days for submittal of written comments from the public in support of or in opposition to the Petition, as allowed by Florida Administrative Code Rule 42-1.012. On

April 30, 2007, Petitioner filed written supplemental testimony of Darrin Mossing with DOAH, along with an affidavit adopting Mr. Mossing's written supplemental testimony. Exhibit R. No written statements from the public were submitted to DOAH. On May 2, 2007, Petitioner filed a motion for leave to late-file correspondence along with correspondence received that day from the Northeast Florida Regional Planning Council (Planning Council) indicating that the application (Petition) appeared to be consistent with the proposed development plan included in the Development of Regional Impact (DRI) application. Exhibit S. Petitioner's motion for leave to late-file correspondence is granted.

SUMMARY OF THE HEARING AND RECORD

A summary of the evidence presented is outlined below using headings which are the factors to be considered by the Commission in making a determination whether to grant or deny the Petition. § 190.005(1)(e)1.-6., Fla. Stat.

A. Whether all statements contained within the Petition have been found to be true and correct.

1. Mr. Montgomery stated that he had reviewed the contents of the Petition and generally described the attachments to the Petition. Mr. Montgomery stated that the Petition and its attachments, as modified and admitted into evidence as Composite Exhibit A, are true and correct to the best of his knowledge.

2. Mr. Montgomery stated that Petition Exhibits 1 through 9 and 11 were prepared by him or under his supervision. Mr. Montgomery stated that the Petition and the Petition Exhibits are true and correct to the best of his knowledge.

3. Mr. Montgomery stated that the names of the five persons designated to serve as the initial Board of Supervisors of the proposed District are: Maurice Randolph, Patsy Hite, Ken Lapointe, William Wright, and himself. According to Mr. Montgomery, each of these individuals is a citizen of the United States and resides in the State of Florida.

4. Mr. Moriarty, an expert in civil engineering, stated that he had prepared or had others prepare under his supervision Petition Exhibits 1, 4, 5, 6, 8, as amended, and 9. Mr. Moriarty testified that those exhibits are true and correct.

5. Mr. Mossing, an expert in the field of economic analysis and special district government, stated that he reviewed the Petition and the Petition Exhibits. Mr. Mossing stated that his firm prepared Exhibit 10 to the Petition, the Statement of Estimated Regulatory Costs (SERC), as amended, and that Exhibit 10, as amended, was true and correct to the best of his knowledge.

6. The evidence indicates that the statements contained within the Petition and its applicable exhibits, as modified, are true and correct. No statement within the Petition or its attachments was disputed.

B. Whether the establishment of the District is inconsistent with any applicable element or portion of the State Comprehensive Plan or of the effective local government comprehensive plan.

7. Mr. Montgomery testified that the property within the proposed District is located within the proposed Timucuan DRI. Several other entities owning property within the proposed DRI have filed petitions to establish community development districts (CDD) over that property. These include the (1) Timucuan South CDD, (2) Timucuan Preserve CDD, and (3) Braddock CDD.

8. Mr. Stewart, an expert in the field of state and local comprehensive planning, explained that the DRI is in the second sufficiency phase and is expected to be approved in early June 2007, and prior to final action by the Commission to consider the establishment of the proposed District.

9. Mr. Stewart reviewed from a planning perspective applicable portions of the State Comprehensive Plan, Chapter 187, Florida Statutes, which relate to the establishment of a CDD. He stated that there are three subjects of the State Comprehensive Plan that directly apply to the establishment of

the proposed District, as well as the policies supporting those subjects.

10. According to Mr. Stewart, Subject 15, "Land Use," recognizes the importance of enhancing the quality of life in Florida by ensuring that future development is located in areas that have the fiscal ability and service capacity to accommodate growth. Mr. Stewart testified that the proposed District will have the fiscal ability to provide services and facilities to the population in the designated growth area and help provide infrastructure in an area which can accommodate development within the area in a fiscally responsible manner.

11. According to Mr. Stewart, Subject 17, "Public Facilities," provides guidance to plan for and finance new facilities to serve residents in a timely, orderly and efficient manner. Mr. Stewart testified that the proposed District will ensure that the residents receiving the benefits of new infrastructure pay for that infrastructure and that the District will be able to implement innovative, but fiscally sound and cost-effective techniques for financing public facilities.

12. According to Mr. Stewart, Subject 25, "Plan Implementation," requires that systematic planning be incorporated into all levels of government, with particular emphasis on improving intergovernmental coordination and maximizing citizen involvement. Mr. Stewart testified that the

proposed District is consistent with this element of the State Comprehensive Plan because the proposed District will have the ability to finance, construct, operate, maintain, and own the proposed services and facilities, though it will be subject to the local government comprehensive plan and land development regulations. Additionally, Mr. Stewart testified that the proposed District will be governed by a Board of Supervisors, whose meetings are publicly advertised and open to the public.

13. Mr. Mossing stated that from an economic perspective, four subject areas of the State Comprehensive Plan are particularly relevant: Subject 15, "Land Use"; Subject 17, "Public Facilities"; and Subject 20, "Governmental Efficiency"; and Subject 25, "Plan Implementation."

14. He echoed the opinion of Mr. Stewart that, with regard to Subject 15, "Land Use," the proposed District can accomplish the State land use goal of guiding development to areas which have the service capacity to accommodate growth.

15. Mr. Mossing stated that Subject 17, "Public Facilities," aims to protect the substantial investments and public facilities that already exist and plan for future facilities to serve residents in a timely, orderly, and efficient manner. According to Mr. Mossing, the proposed District will further Subject 17's goals and policies.

16. Mr. Mossing stated that Subject 20, "Governmental Efficiency," directs Florida governments to economically and efficiently provide the amount and quality of services required by the public. Mr. Mossing further stated that consistent with Subject 20, the proposed District will: 1) cooperate with other levels of Florida government; 2) be established under uniform general law standards as specified in Chapter 190, Florida Statutes; 3) be professionally managed, financed, and governed by those whose property directly receives the benefits; 4) not burden the general taxpayer with costs for services or facilities inside the proposed District; and 5) plan and implement cost efficient solutions for the required public infrastructure and assure delivery of selected services to residents.

17. Mr. Mossing testified that Subject 25, "Plan Implementation," calls for systematic planning capabilities to be integrated into all levels of government throughout the state, with particular emphasis on improving intergovernmental coordination and maximizing citizen involvement. According to Mr. Mossing, the proposed District is consistent with this element of the State Comprehensive Plan.

18. Mr. Stewart testified that the establishment of the proposed District is not inconsistent with any applicable element or portion of the City of Jacksonville 2010

Comprehensive Plan (Local Comprehensive Plan). According to Mr. Stewart, mechanisms such as interlocal agreements will be available to ensure that the proposed District and the City work together and coordinate the construction, maintenance and management of improvements. Mr. Stewart further stated that the proposed District would provide the required infrastructure within its boundaries without reducing the fiscal resources of the City or decreasing the City's bonding limits and that those residents benefited by the infrastructure would pay for it through special assessments. This is consistent with the North Jacksonville Shared Vision and Master Plan. Mr. Montgomery also testified that the establishment of the proposed District will facilitate the funding and construction of Braddock Parkway, a road of critical importance that is anticipated by the North Jacksonville Shared Vision and Master Plan. Finally, Mr. Stewart testified that the proposed District will provide needed public facilities in an efficient and cost-effective manner that ensures a strong cost-to-benefit ratio. In completing the above-referenced actions, the proposed District furthers Goal 1, Policy 1.2.2, and Policy 1.2.7, of the City's Local Comprehensive Plan.

19. The Department of Community Affairs (Department) reviewed the Petition for consistency with the State Comprehensive Plan and the City's Local Comprehensive Plan. In

the letter dated February 13, 2007, the Department stated that the proposed District is inconsistent with the provisions of Section 163, Part II, Florida Statutes, until the proposed DRI and associated land use change are approved and in effect. The Department recommended that final action on the proposed District be deferred until the DRI project and the associated land use change are approved and become effective. The Department did not allege any inconsistency with any local or state comprehensive plan.

20. Mr. Stewart testified that he does not agree with the recommendation of the Department because the Department has not concluded that establishment of the proposed District would be inconsistent with either the State Comprehensive Plan or the City's Local Comprehensive Plan, which is the statutory factor in Section 190.005, Florida Statutes.

21. Mr. Stewart testified that the status of the DRI does not affect his opinion as to whether the establishment of the proposed District is inconsistent with any portion or element of the State Comprehensive Plan or the City's Local Comprehensive Plan. Instead, Mr. Stewart stated that in determining whether to grant a petition for the establishment of the proposed District, one of the statutory factors in Section 190.005(1)(e), Florida Statutes, requires that the Commission consider whether the establishment of the proposed District is inconsistent with

any applicable element or portion of the State Comprehensive Plan or the City's Local Comprehensive Plan. Mr. Stewart testified that this is a much narrower question than whether the underlying development plan for lands to be served by the proposed District is consistent with Section 163, Part II, Florida Statutes.

22. Section 190.002(2)(d), Florida Statutes, states that "any matter concerning permitting or planning of the development is not material or relevant" to the process of establishing a community development district. The decision of the Commission may be "based only on factors material to managing and financing the service-delivery function" of the proposed District.

23. Section 190.002(3), Florida Statutes, states that the establishment of a CDD is not a development order within the meaning of Chapter 380, Florida Statutes, which in this case means that the lands to be served by the proposed District will be governed by all applicable planning and permitting laws, rules, regulations, and policies of the State and the City. Thus, Mr. Stewart testified that the establishment of the proposed District will have no impact upon whether the DRI is approved, and any development activity of the proposed District will be subject to the planning and permitting rules, regulations, and policies of the State and the City. If no DRI

is approved within five years, the district will be dissolved as a matter of law. § 190.046(7), Fla. Stat.

24. In his supplemental written testimony, Mr. Mossing identified several community development districts and an independent special district that have been established prior to the completion of a DRI or related entitlement proceeding. Exhibit R. One example provided by Mr. Mossing is the establishment of the Timucuan South Community Development District, which is located within the same proposed DRI and was established by the City on March 13, 2007. Establishment of the Timucuan South CDD prior to the completion of the DRI process for the underlying land within the DRI is evidence that the City has determined that the establishment of that district was not inconsistent with the State Comprehensive Plan or the City's Local Comprehensive Plan. Further, in Exhibit 3 to the City's Ordinance Establishing the Timucuan South CDD, the City's Planning and Development Department report to the City Council regarding the Timucuan South CDD, contains that department's conclusion that the establishment of the CDD would be consistent with any applicable element or portion of the State Comprehensive Plan or of the City's Local Comprehensive Plan.

25. Mr. Mossing cited the Westchester Community Development District No. 1 as another example. It was established by St. Lucie County in 2001, well in advance of the

approval of the Westchester DRI in 2003, and the amendments to the local comprehensive plan that were necessary to effectuate the development plan for those lands. Mr. Mossing further stated that St. Lucie County had determined that establishing that district prior to amendment of the local comprehensive plan and in advance of the DRI approvals and changes would not result in an inconsistency with the State Comprehensive Plan or the Local Comprehensive Plan.

26. Mr. Mossing also stated that the Commission has established a CDD in advance of the receipt of DRI approvals. In 2004, the Commission established the Coastal Lake CDD. In that instance, though the Planned Unit Development approval had been received for the land within that proposed district, DRI approval for the Watersound DRI had not been completed when the district was established.

27. Mr. Mossing also cited the Lakewood Ranch Stewardship District, an independent special district that was established recently by the Legislature in the Chapter 2005-338, Laws of Florida. The district was established pursuant to Chapter 189, Florida Statutes, for the financing of infrastructure, and Section 189.404(2)(e)4., Florida Statutes, required that each local government determine that the establishment of the District is consistent with the applicable local comprehensive

plan. Both local jurisdictions so determined and supported establishment of the district.

28. On May 2, 2007, Petitioner filed with DOAH a motion for leave to late-file correspondence consisting of an electronic mail message from the Planning Council to the Commission that was received by the Commission on May 1, 2007, and which the Commission forwarded to Petitioner on May 2, 2007.

29. In the electronic correspondence, Ed Lehman, the Planning Council's Director of Planning and Development, stated that the application (Petition) appeared to be consistent with the proposed development plan included in the proposed DRI application. Exhibit S. Mr. Lehman also emphasized that construction of Braddock Parkway, an improvement to be constructed in part by the proposed District, is of major importance to the City and the region. This is consistent with the critical nature of the improvement as noted in the North Jacksonville Shared Vision and Master Plan.

30. The evidence indicates that the proposed District will not be inconsistent with any applicable element or portion of the State Comprehensive Plan or the City's Local Comprehensive Plan. The City has already found this to be the case for the already established Timucuan South CDD. The evidence indicates that establishment of CDDs or other special districts prior to the implementation of a development of regional impact, while

not apparently the norm, is not violative of Section 190.005, Florida Statutes. The evidence indicates that establishment of the proposed District is not inconsistent with any applicable element or portion of the State Comprehensive Plan or of any effective local government comprehensive plan.

- C. Whether the area of land within the proposed District is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developable as one functional interrelated community.

31. Testimony on this factor was provided by Mr. Moriarty, Mr. Stewart, and Mr. Mossing. According to Mr. Mossing, the proposed District is of sufficient size and compactness and is sufficiently contiguous to be developable as one functional, interrelated community. Mr. Mossing further testified that the proposed District will operate as one functionally interrelated community.

32. According to Mr. Moriarty, the proposed District is of sufficient size, compactness and contiguity to be developed as a functional interrelated community. Mr. Moriarty further stated that the establishment of a CDD is a good fit for the lands within the proposed District. Mr. Moriarty explained that the specific design of the community allows infrastructure to be provided in a cost effective manner.

33. Mr. Stewart stated that the land within the proposed District is of sufficient size for the proposed District to

deliver infrastructure systems and facilities and function as one functionally interrelated community. Mr. Stewart explained that the facilities to be provided by the proposed District include roads, wetlands mitigation, parks, community recreation and amenity areas, and other neighborhood infrastructure, which are all designed to function as one unified and comprehensive system of improvements.

34. Mr. Mossing testified that the proposed District covers approximately 2,082.64 acres of land, and the configuration of the land within the district is both compact and contiguous. Mr. Mossing concluded that the proposed District is of sufficient size, sufficient compactness, and sufficient contiguity to be developable as a functional interrelated community.

35. The evidence indicates that the land to be included in the proposed District is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developed as a single functionally interrelated community.

- D. Whether the proposed District is the best alternative available for delivering community development services and facilities to the area that will be served by the District.

36. Mr. Mossing testified that establishing the proposed District is the best way to assure that growth within the area encompassed by the District pays for itself. He concluded that

the proposed District is the best alternative available for providing the proposed community development services and facilities to the area to be served.

37. Mr. Mossing identified two alternatives to the establishment of the proposed District: The planned facilities and services could be provided by the City, or the facilities and services could be provided by a developer and/or a homeowners' association (HOA). Mr. Mossing stated that the City must provide facilities and services at sustained levels to a larger geographical area, which places a heavy management delivery load on its staff. Mr. Mossing testified that the use of a CDD allows the City to avoid an increase in the time, money and manpower that would be required to effectively provide facilities and services to the new development. Mr. Mossing further explained that an HOA and/or a developer is not the best alternative to provide necessary facilities and services as neither is able to function as a stable provider of services and facilities over an extended period of time, qualifies as a lower cost source of financing, or has the statutory oversight mechanisms that are imposed on a community development district. Finally, "[a]ll things being equal," the St. Johns River Water Management District prefers CDDs over HOAs as operating entities.

38. Mr. Mossing testified that the proposed District will construct certain public infrastructure and community facilities that will be needed by the property owners and residents of the proposed District and will allow the community development process to take care of its own needs by restricting costs to those who benefit from the services provided. Mr. Mossing stated that the use of non-ad valorem and maintenance assessments or user fees ensures that the property receiving the benefit is the same property that pays for it. Non-ad valorem or special assessments on the property within the proposed District will be used to repay any debt incurred, and operation and maintenance expenses will be paid through maintenance assessments. Mr. Mossing testified that although an HOA could provide for the facilities planned for the proposed District, it would not have the ability to finance the facilities, and the developer would not be able to provide long-term maintenance of any facilities other than through an HOA. Accordingly, Mr. Mossing stated that that there are no effective alternatives to provide for such financing structures, and the proposed District is the best alternative because establishment of the proposed District would result in the lowest cost to landowners and to homeowners as compared to other alternatives.

39. Mr. Mossing stated that the proposed District would be governed by its own Board of Supervisors and managed by those

whose purpose it is to provide the proposed District long-term financing options for the facilities. The long-term financing capabilities of a CDD extend to the operation and maintenance of the facilities owned by the CDD.

40. Mr. Stewart testified that from a planning perspective, the proposed District is the best alternative to provide the proposed community development services and facilities to the 2,082.64 acres proposed to be included within the proposed District. This is in part because only a CDD allows for the independent financing, administration, operation, and maintenance of the land within the District and allows District property owners to completely control the District board and, therefore, the timing and extent of infrastructure development.

41. Mr. Montgomery testified that there are three development entities that are cooperating in the DRI process, and that they are cooperating in order to most effectively proceed through the process and ultimately fund the Braddock Parkway improvement which runs by or through each of their properties. He stated that Braddock Parkway is a road of regional significance that is intended to connect U.S. 1 and Interstate 95, serving as a major transportation corridor and hurricane evacuation route for the North Jacksonville area. Mr. Montgomery testified that the road is of critical importance

to the City and is anticipated by the North Jacksonville Shared Vision and Master Plan. Each developer is contemplating the development of three or more distinct communities, each with their own identity and development character that will provide residents with their own community and an entity capable of sustaining that community in perpetuity. Mr. Montgomery stated that all the districts are included in the same DRI due to the common improvements, such as Braddock Parkway, and that such inclusion is not indicative of a common development identity.

42. Mr. Mossing testified that the use of multiple CDDs in one DRI is a common practice. He opined that the use of multiple CDDs within one DRI is the best alternative for delivering community services and facilities to the area to be served by the proposed District. Mr. Mossing testified that multiple districts will alleviate the burden on the City of providing infrastructure and services to the entire DRI. He stated that the multiple CDDs can work together through interlocal agreements to provide facilities to benefit the lands within the DRI, yet they will also have the ability to restrict neighborhood or local improvement costs to those who are directly benefiting from those improvements. Mr. Mossing testified that the CDDs will be able to work together to achieve shared infrastructure improvements, but that multiple CDDs are better for the large DRI than a single district. Aggregating

the districts would fail to fulfill the needs of each community to develop its own identity and sense of community. The four communities are not being developed or marketed as one community, and they are not planned with any functional relationship beyond the sharing of costs associated with the master shared improvements.

43. The evidence indicates that the proposed District is the best alternative available for delivering community development services and facilities to the area that will be served by the District.

E. Whether the community development services and facilities of the proposed District will be incompatible with the capacity and uses of existing local and regional community development services and facilities.

44. Mr. Mossing, Mr. Moriarty, and Mr. Stewart provided testimony on this issue. Each witness's testimony supported Mr. Moriarty's conclusion that none of the proposed services or facilities currently in existence or being provided by another entity or unit of government. Mr. Moriarty further concluded that the services and facilities to be provided by the proposed District will not be incompatible with the capacities and uses of existing local and regional community development facilities and services.

45. The evidence indicates that the community development services and facilities of the proposed District will not be

incompatible with the capacity and uses of existing local and regional community development services and facilities.

F. Whether the area that will be served by the proposed District is amenable to separate special-district government.

46. Two criteria are needed to evaluate a land area as amenable to separate special district government: 1) whether the land area is of sufficient size, sufficient compactness and sufficiently contiguous to be the basis for a functional interrelated community; and 2) does the land area have a need for the facilities and services.

47. With respect to the first criterion, as stated previously, from the perspectives of planning, economics, engineering, and special-district management, the area of land to be included in the proposed District is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developed as a functionally interrelated community. Regarding the second criterion, Mr. Stewart stated that the lands within the proposed District have sufficient infrastructure needs to warrant a separate special district government.

48. The evidence indicates that the proposed District is amenable to separate special-district government.

G. Other requirements imposed by statute or rule.

49. The Clerk of the Commission certified that the Petition contains all the information required by Section

190.005(1)(a), Florida Statutes, and the evidence presented at the local public hearing indicates that the Petition contains all required information.

50. Section 190.005(1)(a), Florida Statutes, requires the Petition to include a SERC in accordance with the requirements of Section 120.541, Florida Statutes. The SERC in the Petition contains an estimate of the costs and benefits to all persons directly affected by the proposed rule to establish the proposed District--the State of Florida and its citizens, the City and its citizens, and future landowners within the proposed District.

51. Beyond administrative costs related to rule adoption, the State and its citizens will only incur minimal costs from establishing the proposed District. These costs are related to the incremental costs to various agencies of reviewing one additional local government report. Any debt obligations incurred by the proposed District to construct its infrastructure, or for any other reason, are not debts of the State of Florida or any unit of local government.

52. Administrative costs incurred by the City related to rule adoption should be minimal and are offset by the required filing fee of \$15,000 paid to the City.

53. Landowners within the proposed District will pay non-ad valorem or special assessments for the District's facilities.

Benefits to landowners in the area within the proposed District will include a higher level of public services and amenities than might otherwise be available, completion of District-sponsored improvements to the area on a timely basis, and greater control over community development services and facilities within the area.

54. Section 190.005(1)(d), Florida Statutes, requires the Petitioner to publish notice of the local public hearing in a newspaper of general circulation in Duval County for four consecutive weeks prior to the hearing. The notice was published in the Florida Times-Union, a newspaper of general paid circulation in Duval County, on March 22, March 29, April 5, and April 12, 2007, which met the criteria in Section 190.005, Florida Statutes. A notice of the local public hearing was also published in the Florida Administrative Weekly on March 30, 2007.

H. Local Government Support for Establishment

55. Pursuant to the requirements of Section 190.005(1)(b), Florida Statutes, Petitioner filed a copy of the Petition and the \$15,000 filing fee with the City prior to filing the Petition with the Commission.

56. The City did not hold a public hearing on the establishment of the proposed District as permitted by Section 190.005(1)(c), Florida Statutes.

I. Public comment regarding the establishment of the proposed District.

57. No members of the public commented during the public hearing.

APPLICABLE LAW

58. This proceeding is governed by Chapter 190, Florida Statutes, which establishes an exclusive and uniform method for the establishment of a CDD with a size of 1,000 acres or more, and the rules of the Commission.

59. The Petition contained all the information required by Section 190.005(1), Florida Statutes, and the City was paid the required filing fee.

60. The local public hearing was properly noticed by newspaper publications in Duval County as required by Section 190.005(1)(d), Florida Statutes.

61. The required local public hearing was held and affected units of general-purpose local government and the general public were afforded an opportunity to comment on the proposed District as required by Section 190.005(1)(d), Florida Statutes, and Florida Administrative Code Rule 42-1.012.

62. The Petition contains a SERC in accordance with the requirements of Section 120.541, Florida Statutes.

63. All portions of the Petition and other submittals have been completed and filed as required by law.

64. Petitioner demonstrated that the Petition favorably addresses all the factors set forth in Section 190.005(1)(e), Florida Statutes.

CONCLUSION

Section 190.005(1)(e), Florida Statutes, states that the Commission "shall consider the entire record of the local hearing, the transcript of the hearing, resolutions adopted by local general-purpose governments," and the factors listed in that paragraph. Based on the record evidence, as corrected and supplemented, the Petition meets all statutory requirements, and there appears no reason not to grant the Petition to establish by rule the proposed Timucuan Community Development District.

DONE AND ENTERED this 25th day of May, 2007, in Tallahassee, Leon County, Florida.

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CHARLES A. STAMPELOS
Administrative Law Judge
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Filed with the Clerk of the
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this 25th day of May, 2007.

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