

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

IN RE: PETITION TO ESTABLISH)
THE BRADOCK COMMUNITY) Case No. 07-0579
DEVELOPMENT DISTRICT)
_____)

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, by Charles A. Stampelos, Administrative Law Judge of the Division of Administrative Hearings (DOAH), at City Hall, St. James, Committee Room B, 117 West Duval Street, Jacksonville, Florida.

The hearing was conducted for the purpose of taking testimony and public comment and receiving exhibits on the Petition of Crosswinds-Florida, LLC (Petitioner), to establish the Braddock 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 proposed District.

APPEARANCE

For Petitioner: Chasity H. O'Steen, Esquire
Rose, Sundstrom & Bentley, LLP
2548 Blairstone Pines Drive
Tallahassee, Florida 32301

STATEMENT OF THE ISSUES

The issues to be addressed are whether the Petition to establish the District meets the criteria 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 that was filed with the Commission, including its attachments as amended and revised, was received into evidence as Composite Hearing Exhibit 1.

On January 31, 2007, the Clerk of the Commission certified that the Petition 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 Jock McCartney, vice president and an independent contractor 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 community development district operations and management and financial analysis. Petitioner's Exhibits 1 through 14 were received into evidence at the hearing.

In addition to Petitioner's counsel and witnesses, one person, Francine Edwards, a member of the public, attended and posed a question 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. No written comments from the public were submitted to DOAH.

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.

Mr. Mossing's Affidavit is admitted into evidence as Exhibit 15.

On May 2, 2007, Petitioner filed a motion for leave to late-file correspondence received that day from the Northeast Florida Regional Planning Council (Planning Council) indicating that it had completed its review of the application (Petition) and found it appeared to be consistent with the proposed development plan included in the Development of Regional Impact (DRI) application. Petitioner's motion for leave to late-file correspondence is granted and the motion and e-mail correspondence are admitted into evidence as Exhibit 16.

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. McCartney stated that he had reviewed the contents of the Petition and generally described the attachments to the Petition. Mr. McCartney stated that Petition Exhibits 1 through 11 and 13 were prepared under his supervision. Mr. McCartney stated that the Petition and its attachments, as revised and filed with the Commission and admitted into evidence as

Composite Hearing Exhibit 1, are true and correct to the best of his knowledge.

2. Mr. McCartney stated that Exhibit 5 to the Petition is a true and correct copy of the consent and joinder form that was executed by the authorized representative of the owner of one-hundred percent of the lands within the proposed District.

Mr. McCartney stated that Exhibit 4 to the Petition accurately identifies the location and provides a metes and bounds description, along with a list of the owners' names and addresses, of parcels located within the boundaries of the proposed District that will be excluded from the proposed District. According to Mr. McCartney, the owners of the excluded parcels have not expressed a desire to be included within the proposed District.

3. Mr. McCartney stated that the names of the five persons designated to serve as the initial Board of Supervisors of the proposed District are: Albert Valdivia, Kathleen Davis, Shaina Roth, Diana Richard, and himself.

4. Mr. Moriarty, an expert in civil engineering, stated that he had prepared, or others under his supervision had prepared, Petition Exhibits 1, 2, 3, 4, 6, 7, 8, 10 and 11. Mr. Moriarty stated that those exhibits, as revised, are true and correct.

5. Mr. Mossing, an expert in the field in Community Development District (CDD) operations and management and financial analysis, stated that he had reviewed the Petition and its attachments. Mr. Mossing stated that his firm prepared Exhibit 12 to the Petition, the Statement of Estimated Regulatory Costs (SERC), as amended, that had been filed with the Commission on March 14, 2007. He further stated that Table 1 on page five of the SERC had been subsequently revised as reflected in the SERC attached to his prefiled testimony as Exhibit DM-1.

6. The evidence indicates that the Petition and its 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. McCartney testified that the property within the proposed District is located within the proposed Timucuan DRI. Several other entities owning property within the proposed Timucuan DRI have filed petitions to establish CDDs over that property. These CDDs include the (1) Timucuan South CDD, (2) Timucuan CDD, and (3) Timucuan Preserve CDD.

8. Mr. Stewart, an expert in the field of state and local comprehensive planning, explained that the Timucuan 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 provisions of the State Comprehensive Plan, Chapter 187, Florida Statutes, applicable to the establishment of a CDD. Mr. Stewart stated that there are subjects of the State Comprehensive Plan that are particularly relevant to the establishment of the proposed District, as well as the policies supporting those subjects.

10. According to Mr. Stewart, Subject 15, "Land Use," emphasizes that development should be located in those 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 within the development. Mr. Stewart testified that the proposed District is consistent with Policy 1 of Subject 15 because the proposed District is a long-term, stable mechanism with the ability to provide a high quality of infrastructure facilities and services in an efficient and focused manner to the community.

11. According to Mr. Stewart, Subject 25, "Plan Implementation," requires the integration of systematic planning capabilities 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 it will have the ability to finance, construct, operate, maintain and own, in some cases, 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 to ensure citizen involvement in the decisions of the proposed District. Further, Mr. Stewart testified that establishment of the proposed District will enhance governmental coordination with the City.

12. Mr. Stewart also testified that the proposed District is consistent with Policy 2 of Subject 25 because the establishment of the proposed District will ensure that necessary community services and facilities are provided within the development without placing a burden on the City or the taxpayers in the City.

13. Mr. Stewart testified that the proposed District is consistent with Policy 3 of Subject 25 because the establishment of the proposed District, as an independent special district, would be required by Section 189.415(2), Florida Statutes, to submit public facilities reports and annual updates. Mr.

Stewart also testified that the proposed District would be required by Sections 190.002(2)(c) and 190.004(3), Florida Statutes, to comply with all applicable governmental laws, rules and regulations.

14. Mr. Stewart testified that the proposed District is consistent with Policy 6 of Subject 25 because CDDs hold public meetings that operate "in the sunshine," all CDD records are open to the public for review and this would encourage citizen participation in the activities of the proposed District.

15. Mr. Stewart testified that the proposed District is consistent with Policy 8 of Subject 25 because it would enhance cooperation between the City and the private sector for the provision of community infrastructure improvements and services.

16. Mr. Stewart also explained how the establishment of the proposed District would further additional provisions of the State Comprehensive Plan. Subject 9 relates to the expansion of state and local efforts to provide activity-based recreational opportunities to urban areas. Mr. Stewart testified that the establishment of the proposed District would further Subject 9 because it can provide funding assistance for activity-based recreational opportunities.

17. Mr. Stewart also testified that the establishment of the proposed District would further the goals and policies of Subject 17 because it would: (1) protect investments in

existing facilities; (2) provide financing for new facilities; (3) ensure that the costs of new public facilities are allocated on the basis of the benefits received by the future residents of the District; (4) implement innovative but fiscally sound financing techniques for the public facilities; and (5) identify and use stable revenue sources for financing public facilities.

18. Mr. Stewart testified that the establishment of the proposed District is not inconsistent with any applicable provisions of the City of Jacksonville Local Comprehensive Plan (Local Comprehensive Plan). According to Mr. Stewart, the proposed District will: (1) undergo review and approval for all permitting and construction of the underlying development within the proposed District; (2) potentially enter into interlocal agreements with the City to coordinate the construction, maintenance and management of the proposed District improvements; (3) provide the required infrastructure within its boundaries without using the fiscal resources of the City or decreasing the City's bonding limits; and (4) provide the needed public facilities in an efficient and cost-effective manner that will ensure a strong cost-to-benefit ratio. This is consistent with the North Jacksonville Shared Vision and Master Plan. Mr. McCartney also testified that the establishment of the proposed District will facilitate the funding for and construction of Braddock Parkway, a road of regional

significance that is anticipated by the North Jacksonville Shared Vision and Master Plan.

19. Finally, Mr. Stewart stated that, in completing the above-referenced actions, the proposed District furthers Goal 1 of the Intergovernmental Coordination Element, Objective 1.2 and Policy 1.2.2. of the Capital Improvements Element, and Objective 1.2 and Policy 1.2.7 of the Future Land Use Element of the Local Comprehensive Plan.

20. The Commission requested that the Department of Community Affairs (Department) review the Petition. 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 either the Local or State Comprehensive Plan.

21. 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

Local Comprehensive Plan, which is the statutory factor in Section 190.005, Florida Statutes.

22. 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 Local Comprehensive Plan. Instead, Mr. Stewart stated that in determining whether to grant a petition for the establishment of the proposed District, the statutory criterion 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 Local Comprehensive Plan. This is a 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.

23. 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 CDD. The decision of the Commission may be based only on factors material to managing and financing the service-delivery function of the proposed District.

24. 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 is 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 "development permit, as defined in Chapter 380," is approved within five years, the district will be dissolved as a matter of law. § 190.046(7), Fla. Stat.

25. In his supplemental written testimony, Mr. Mossing identified several CDDs and an independent special district that have been established prior to the completion of a DRI or related entitlement proceeding. One example provided by Mr. Mossing is the establishment of the Timucuan South CDD, which is located within the proposed Timucuan DRI and was established by the City on March 13, 2007. Exhibit 15. 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 is not inconsistent with the State Comprehensive Plan or the Local Comprehensive Plan. Further, in Exhibit 3 to the City's

Ordinance Establishing the Timucuan South CDD, the City's Planning and Development Department (City department) report to the Jacksonville City Council regarding the Timucuan South CDD contains the City department's conclusion that the establishment of that CDD would be consistent with any applicable element or portion of the state comprehensive plan or of the Local Comprehensive Plan.

26. Mr. Mossing cited to 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 the 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.

27. 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.

28. The Lakewood Ranch Stewardship District was also cited by Mr. Mossing as 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 affected local government determine that the establishment of the district is consistent with the applicable local comprehensive plan. Both local jurisdictions supported establishment of the district.

29. The Commission also requested that the Planning Council provide comments to the Commission no later than February 21, 2007, regarding the establishment of the proposed District. On May 2, 2007, Petitioner filed with DOAH a motion to late-file correspondence consisting of an e-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.

30. In the e-mail, Ed Lehman, the Planning Council's Director of Planning and Development, stated that application (Petition) appeared to be consistent with the proposed development plan included in the proposed DRI application.

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.

31. The evidence indicates that the proposed District will not be inconsistent with any applicable element or portion of the State Comprehensive Plan or the Local Comprehensive Plan. The City has already found this to be the case for the established Timucuan South CDD. Establishment of CDDs or other special districts prior to the implementation of a DRI, while not apparently the norm, appears to be consistent with prior CDDs.

- 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.

32. Testimony on this factor was provided by Mr. Mossing, Mr. Moriarty, and Mr. Stewart. According to Mr. Mossing, from a management perspective the area to be included within the proposed District has sufficient size and is sufficiently compact and contiguous to be developed with infrastructure systems, facilities and service as one functionally interrelated community.

33. According to Mr. Moriarty, the proposed District, which encompasses approximately 2,346 acres of land, is sufficient in size to require substantial infrastructure needs that are suitable for development as a functionally interrelated community. Mr. Moriarty further explained that the proposed District can provide the necessary infrastructure in a cost-effective manner based on the design of the community. Mr. Moriarty concluded that the use of one development plan for the community will ensure that the services and facilities are provided and maintained in a functional, efficient and integrated manner.

34. Mr. Stewart stated that the land area to be included within the proposed District can be expected to succeed as a functional, interrelated community from a planning perspective because the services and facilities for the lands within the proposed District will not be hampered by significant barriers or spatial problems. Mr. Stewart noted that the proposed District will be providing limited services and facilities, so from a planning perspective the relatively small planned community character of the proposed District is a good match for the limited services and facilities. Mr. Stewart concluded that the proposed District is of sufficient size, is sufficiently compact, and is sufficiently contiguous to serve as one 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 stated that the proposed District is the best alternative for delivering community services and facilities to the area that it will serve.

37. Mr. Mossing identified various alternatives to the establishment of the proposed District. Mr. Mossing stated that the City could provide the necessary community services and facilities, but service to the area within the proposed District would only result in an increased burden on the City's resources. Mr. Mossing explained that the proposed District, by contrast, has limited power and jurisdiction and could focus its attention to the specific land area within its boundaries in a cost-effective manner that would enable the City to focus its financial and administrative resources elsewhere.

38. Mr. Mossing stated that a homeowner's association (HOA) is not the best alternative to provide the community services and facilities because it is not an entity that can function as a stable provider of community services and

facilities over an extended period of time. Additionally, a HOA cannot qualify for a lower cost source of financing, such as tax-exempt bonds, and it lacks the statutory oversight mechanisms imposed on CDDs to safeguard the public.

39. Similarly, Mr. Moriarty stated that neither a property owners' nor a HOA has the ability to finance infrastructure of the nature and scope contemplated by the proposed District. By contrast, a CDD is a stable, long-term governmental body with the ability to efficiently and effectively finance, acquire, construct, own, operate and maintain the type of public infrastructure contemplated by the proposed District. Mr. Moriarty concluded that the proposed District is the best alternative for delivering community services and facilities to the area within the proposed District to be served.

40. Mr. Mossing also concluded that a developer is not the best alternative to provide the community services and facilities. Unlike a CDD's Board of Supervisors, a developer would not have to conduct its meetings and actions relating to the community "in the sunshine," and owners and residents would not necessarily be entitled to view the records of the developer relating to the community.

41. Mr. Stewart also stated that the proposed District is the best alternative for delivering community services and facilities to the land area to be included within the proposed

District. Mr. Stewart noted that the residents within the proposed District would one day be elected to the Board of Supervisors, and would be able to directly govern the levels of service within the proposed District without diverting City resources. Additionally, the maintenance services within the proposed District would be publicly bid, which would not be the case if a property owners' or HOA was the alternative used.

42. Finally, "[a]ll things being equal," the St. Johns River Water Management District has indicated its preference for CDDs over HOAs as the operating and maintenance entities.

43. Mr. McCartney testified that three development entities are cooperating in the DRI process to most effectively proceed through the permitting process and ultimately fund the Braddock Parkway improvement that runs by or through each of their properties. Mr. McCartney 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. McCartney testified that the Braddock Parkway 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 distinct community and an entity capable of sustaining that

community in perpetuity. Mr. McCartney stated that all the CDDs are included in the Timucuan DRI due to the common improvements, such as Braddock Parkway, and such inclusion is not indicative of a common development identity.

44. Mr. Mossing testified that the use of multiple CDDs in one DRI is a common practice. He stated that as someone familiar with district management and financial analysis, the use of multiple CDDs within the proposed Timucuan DRI is the best alternative for delivering community services and facilities to the area to be served by the proposed District. Mr. McCartney testified that the CDDs within the proposed Timucuan DRI would enter into interlocal agreements to construct the Braddock Parkway, which will benefit the DRI. Mr. Mossing testified that the CDDs within the Timucuan DRI will be able to share the costs for some of the master infrastructure improvements, such as the Braddock Parkway, but they will finance and separately maintain the neighborhood infrastructure improvements within each community.

45. 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 proposed 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.

46. Mr. Mossing, Mr. Moriarty and Mr. Stewart provided testimony on this issue. Each of these witnesses supported Mr. Moriarty's conclusion that none of the proposed services or facilities contemplated by the proposed District currently exists, so there will be no duplication, overlap or incompatibility with any local or regional community development services or facilities.

47. 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.

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

49. With respect to the first criterion, Mr. Mossing stated that there is sufficient need for the contemplated

improvements. The land area is well suited to the provision of the proposed services and improvements from a management and operations perspective.

50. With respect to the second criterion, there are sufficient significant infrastructure needs for the land within the proposed District that makes it developable as a functionally interrelated community. The use of one comprehensive and phased development plan by the proposed District is a contiguous and homogenous method of providing necessary services and facilities to the lands within the proposed District in a cost-effective manner.

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

G. Other requirements imposed by statute or rule.

52. 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.

53. 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 County and its citizens, and future landowners within the proposed District.

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

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

56. 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 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.

57. Section 190.005(1)(d), Florida Statutes, requires 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 published in the Florida Administrative Weekly on March 30, 2007.

H. Local Government Support for Establishment.

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

59. The City Council did not hold a public hearing to consider 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.

60. One member of the public, Francine Edwards, commented during the public hearing.

61. After Mr. Mossing provided testimony at the hearing, Ms. Edwards asked for clarification regarding Mr. Mossing's response to whether the proposed District, the Timucuan South Community Development District, the Timucuan Community Development District, and the Timucuan Preserve Community

Development District should be integrated into a single CDD. In response, Mr. Mossing, stated that it is better to have individual and separate CDDs. See Finding of Fact 44.

APPLICABLE LAW

62. This proceeding is governed by Chapter 190, Florida Statutes, which establishes the 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.

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

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

65. The evidence indicates that 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.

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

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

68. The evidence indicates 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 Braddock Community Development District.

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

S

CHARLES A. STAMPELOS
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675 SUNCOM 278-9675
Fax Filing (850) 921-6847
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 25th day of May, 2007.

COPIES FURNISHED:

Jerry McDaniel, Director
Office of the Governor
The Capitol, Room 1802
Tallahassee, Florida 32399-1001

Barbara Leighty, Clerk
Growth Management and Strategic
Planning
The Capitol, Room 1802
Tallahassee, Florida 32399-0001

Paul Huck, General Counsel
Office of the Governor
The Capitol, Suite 209
Tallahassee, Florida 32399-1001

Shaw Stiller, General Counsel
Department of Community Affairs
2555 Shumard Oak Boulevard
Suite 325
Tallahassee, Florida 32399-2160

Gladys Perez, Esquire
Executive Office of the Governor
Room 209
The Capitol
Tallahassee, Florida 32399

Chasity H. O'Steen, Esquire
Rose, Sundstrom & Bentley, LLP
2548 Blainstone Pines Drive
Tallahassee, Florida 32301-5925