

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

IN RE: PETITION TO AMEND THE
BOUNDARY OF THE TAMPA PALMS
OPEN SPACE AND TRANSPORTATION
COMMUNITY DEVELOPMENT DISTRICT

Case No. 15-6699

ADMINISTRATIVE LAW JUDGE'S REPORT TO THE
FLORIDA LAND AND WATER ADJUDICATORY COMMISSION

On January 22, 2016, a local public hearing was conducted before E. Gary Early, an Administrative Law Judge of the Division of Administrative Hearings (DOAH), at the West Meadow Community Center Conference Room, 8401 New Tampa Boulevard, Tampa, Florida.

APPEARANCES

For Petitioner Tampa Palms Open Space and Transportation
Community Development District:

Lindsay Whelan, Esquire
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STATEMENT OF THE ISSUES

The issue before the Florida Land and Water Adjudicatory Commission (Commission) in this proceeding is whether to grant the Petition of the Tampa Palms Open Space and Transportation Community Development District (Petition), to contract the boundary of the Tampa Palms Open Space and Transportation

Community Development District (District) by removing 21.59 acres from the 3,151.7 acres of land that comprise the current area encompassed by the District.

The local public hearing was conducted pursuant to sections 190.046(1)(f) and 190.005(1)(d), Florida Statutes, for the purpose of taking testimony and public comment and receiving exhibits on the Petition.

This report is prepared and submitted to the Florida Land and Water Adjudicatory Commission (Commission) pursuant to sections 190.046 and 190.005 for consideration in its determination whether to adopt a rule amending the boundary of the District as requested by the District.

PRELIMINARY STATEMENT

On October 28, 2015, the District filed the Petition with the Commission. The District previously provided the Petition and its exhibits, along with the requisite filing fee, to the City of Tampa (City).

The Petition seeks to contract the boundary of the District by removing 21.594 acres, more or less (the contraction parcel), from the 3,151.7 acres, more or less, that comprise the existing District, which will result in a District boundary encompassing 3,130.11 acres, more or less (the Amended District).

On November 23, 2015, the Commission certified that the Petition contained all required elements and referred the

Petition to DOAH for the purpose of conducting the local public hearing required by section 190.005(1)(d). The Commission also provided a copy of the Petition to the Florida Department of Economic Opportunity (DEO) for its review of compliance with its various programs and responsibilities.

The District is located entirely within the incorporated limits of the City. Section 190.005(1)(c) provides that a municipality containing all or a portion of the lands within the proposed amended District has the option to hold a public hearing within 45 days of the filing of a petition. The City elected not to hold an optional public hearing relative to the proposed boundary amendment.

References to statutes are to Florida Statutes (2015), unless otherwise noted.

SUMMARY OF THE RECORD

A. Petition Contents and Related Matters

1. The Petition was submitted to the Commission on October 28, 2015. A copy of the Petition, along with a check in the amount of \$15,000.00, was submitted to the City under cover dated October 27, 2015.

2. Petition Exhibit 1 is a depiction of the general location of the existing District boundary.

3. Petition Exhibit 2 is the metes and bounds description of the existing District boundary as adopted in Florida Administrative Code Rule 42J-1.002.

4. Petition Exhibit 3 is the metes and bounds description of the contraction parcel.

5. Petition Exhibit 4 is the metes and bounds description of the Amended District after removal of the contraction parcel.

6. Petition Exhibit 5 is the written consent by which the owner (at the time) of 100 percent of the lands within the contraction parcel, Taylor Morrison of Florida, Inc., expressed its consent to the amendment of the boundary of the District by removal of the contraction parcel.

7. Petition Exhibit 6 is confirmation that the District has approved the amendment of the boundary of the District by removal of the contraction parcel.

8. Petition Exhibit 7 designates the future general distribution, location, and extent of public and private land uses for the contraction parcel by the future land use element of the City of Tampa Comprehensive Plan.

9. Petition Exhibit 8 is a map of the current major trunk water mains, sewer interceptors, and outfalls within the current District boundary.

10. Petition Exhibit 9 is the Statement of Estimated Regulatory Costs (SERC) prepared in accordance with the requirements of section 120.541, Florida Statutes.

11. The Petition described the services and facilities currently provided by the District to the area being removed. According to the Petition, the District is not currently providing any facilities or services to the contraction parcel, and the contraction parcel is not subject to any District assessments. The District does not intend to construct or provide infrastructure improvements within the contraction parcel in the future. There will be no changes in the facilities proposed to be provided by the District as a result of the removal of the contraction parcel.

12. The Petition designated the future general distribution, location, and extent of public and private uses of land proposed for the area being removed. The Petition provided a map of future land uses. The Petition also provided that upon the removal of the contraction parcel from the District, there will be no remaining developable acreage within the District's boundary; accordingly, the District has no present intent to construct and/or acquire additional infrastructure or facilities within its contracted boundary, except with respect to the maintenance of its existing infrastructure and facilities.

13. The Petition alleges that the removal of the contraction parcel from the District boundary should be granted for the following reasons:

a. Amendment of the District and all land uses and services planned within the District, as contracted, are not inconsistent with applicable elements or portions of the adopted State Comprehensive Plan or the City of Tampa Comprehensive Plan.

b. The area of land within the District, as contracted, is part of a planned community. The District, as contracted, will continue to be of sufficient size and sufficiently compact and contiguous to be developed as one functional and interrelated community.

c. The District, as contracted, continues to be the best alternative for delivering community development services and facilities without imposing an additional burden on the general population of the local general-purpose government.

d. The community development services and facilities of the District, as contracted, will not be incompatible with the capacity and use of existing local and regional community development services and facilities.

e. The area to be served by the District, as contracted, continues to be amenable to separate special-district government.

14. The Commission certified that the Petition contained the required elements of a petition to amend the District boundary, though that certification made no representation of the accuracy of the documents.

B. Summary of the Local Public Hearing

15. Notice of the public hearing was advertised on December 23, 2015; December 30, 2015; January 6, 2016; and January 13, 2016, in the Tampa Bay Times, a newspaper of general paid circulation in Hillsborough County, which newspaper complies with the requirements for publication of legal and official advertisements, pursuant to chapter 50, Florida Statutes. The published notice gave the time and place for the hearings, a description of the area to be removed from the District boundary, including a map showing the contraction parcel, and other relevant information.

16. The local public hearing on the Petition was held as noticed on January 22, 2016, at the West Meadow Community Center Conference Room, 8401 New Tampa Boulevard, Tampa, Florida.

17. The District presented the following witnesses at the hearing: Gary Lee Moyer, President of Moyer Management Group, who was qualified and accepted as an expert in special district consulting, financial analysis, and management; Tonya Lee Stewart, senior project manager with Stantec Consulting, Inc., who was qualified and accepted as an expert in land development

projects and community development district construction and engineering; and Craig Daniel Hotop, land development manager for Taylor Morrison Homes, Inc.

18. The Pre-Filed Written Testimony of Mr. Moyer, Ms. Stewart, and Mr. Hotop were received as Hearing Exhibits L, M, and N, respectively.

19. The District offered the following additional exhibits, all of which were received into evidence at the hearing:

a. Hearing Exhibit A, consisting of the Petition to Amend the Boundary of the Tampa Palms Open Space and Transportation Community Development District, including Exhibits 1 through 9 thereto.

b. Hearing Exhibit B, consisting of correspondence dated October 27, 2015, transmitting a copy of the Petition to the City, along with a check in the amount of \$15,000.00.

c. Hearing Exhibit C, consisting of correspondence dated December 1, 2015, by which the City confirmed its intent to not hold a separate public hearing.

d. Hearing Exhibit D, consisting of correspondence dated November 23, 2015, by which the Commission referred the Petition to DOAH to conduct a local public hearing.

e. Hearing Exhibit E, consisting of the Notice of Receipt of Petition published in the Florida Administrative Register on January 6, 2016.

f. Hearing Exhibit F, consisting of the Notice of Hearing entered by the undersigned.

g. Hearing Exhibit G, consisting of correspondence dated November 23, 2015, by which the Commission provided a copy of the Petition to the DEO.

h. Hearing Exhibit H, consisting of the affidavit of publication of the Notice of Local Public Hearing in the Tampa Bay Times.

i. Hearing Exhibit I, consisting of the State Comprehensive Plan, chapter 187, Florida Statutes.

j. Hearing Exhibit J, consisting of the City of Tampa Comprehensive Plan, including chapters 1 through 10 thereto.

k. Hearing Exhibit K, consisting of a subsequent Consent to the Amendment of the Boundaries of the Tampa Palms Open Space and Transportation Community Development District.

20. No members of the public provided comment at the hearing. No public comment was filed after the local public hearing.

21. The Transcript of the local public hearing, with exhibits, was filed with DOAH on February 15, 2016. The District also filed a Proposed Report of Findings and

Conclusions on February 15, 2016, which has been considered in the preparation of this Report.

SUMMARY OF THE TESTIMONY AND EVIDENCE

22. The standards applicable to a determination of whether to grant or deny the District's Petition are those in section 190.005(1)(e).

Section 190.005(1)(e)1. - Whether all statements contained within the Petition have been found to be true and correct.

23. Mr. Moyer testified as to the accuracy of the information contained in the Petition. He also prepared, or had others prepare under his supervision, Petition Exhibit 9, the SERC. Mr. Moyer's testimony constitutes competent, substantial evidence of the accuracy of the statements in the Petition and the exhibits attached thereto.

24. Ms. Stewart testified that she prepared, or had others prepare under her supervision, Petition Exhibits 1, 2, 3, 4, 7, and 8. Ms. Stewart testified that these exhibits accurately depict and describe the boundaries of the parcels of property at issue, the City's future land uses for the parcels of property at issue, and the location and description of the existing major water and sewer trunk lines associated with the parcels of property at issue. Ms. Stewart's testimony constitutes competent, substantial evidence of the accuracy of Petition Exhibits 1, 2, 3, 4, 7, and 8.

25. Mr. Hotop testified that he is familiar with the Petition, and that he coordinated the execution of Petition Exhibit 5, the Consent to the Amendment of the Boundaries of the Tampa Palms Open Space and Transportation Community Development District by which Taylor Morrison of Florida, Inc., as owner of 100 percent of the contraction parcel, consented to the deletion of the contraction parcel from the District. Subsequent to the filing of the Petition, Taylor Morrison of Florida, Inc. sold approximately 0.15 acres within the contraction parcel to a third party. Consent of the purchaser to the deletion of the contraction parcel from the District was provided as Hearing Exhibit K. Mr. Hotop's testimony constitutes competent, substantial evidence of the accuracy of the statements in the Petition, and of the consent of the landowners in the contraction parcel to the proposed District boundary amendment.

26. Based on the testimony and evidence of record, and in the absence of evidence to the contrary, the statements contained in the Petition and the exhibits thereto are true and correct.

Section 190.005(1)(e)2. - Whether the amendment of the District boundary is inconsistent with any applicable element or portion of the State Comprehensive Plan or of the effective local government comprehensive plan.

27. Ms. Stewart reviewed the proposed District boundary amendment for consistency with the State Comprehensive Plan, chapter 187, Florida Statutes.

28. The State Comprehensive Plan "provides long-range policy guidance for the orderly social, economic and physical growth of the State." Of the subjects, goals, and policies in the State Comprehensive Plan, Ms. Stewart identified Subject No. 15 - Land Use, Subject No. 17 - Public Facilities, and Subject No. 25 - Plan Implementation, as relevant from a planning and engineering perspective to the proposed amendment.

29. Subject No. 15 recognizes the importance of locating development in areas that have the resources, fiscal abilities, and service capacity to accommodate growth. Ms. Stewart testified that the Amended District will continue to have the fiscal capability to provide a wide range of services and facilities to a population in a designated growth area. Ms. Stewart's testimony constitutes competent, substantial evidence that the proposed boundary amendment is not inconsistent with the land use goal of the State Comprehensive Plan. There was no evidence to the contrary.

30. Subject No. 17 calls for the protection of existing public facilities and the timely, orderly, and efficient planning and financing of new facilities. Ms. Stewart testified that the removal of the contraction parcel from the boundary of the District will not have an impact on the District's existing public facilities and services, and that no new facilities or services are planned to be constructed, acquired, or otherwise provided by the Amended District. Ms. Stewart's testimony constitutes competent, substantial evidence that the proposed boundary amendment is not inconsistent with the public facilities goal of the State Comprehensive Plan. There was no evidence to the contrary.

31. Subject No. 25 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. Ms. Stewart testified that the District is fully developed so no additional community planning or development activities will occur with respect to the lands within the boundary of the Amended District. Ms. Stewart's testimony constitutes competent, substantial evidence that the proposed boundary amendment is not inconsistent with the plan implementation goal of the State Comprehensive Plan. There was no evidence to the contrary.

32. Based on the evidence adduced at the hearing, the Amended District will not be inconsistent with any applicable provision of the State Comprehensive Plan.

33. Ms. Stewart also reviewed the proposed District boundary amendment for consistency with the City of Tampa Comprehensive Plan.

34. Chapter 190 prohibits a community development district from acting in any manner inconsistent with the local government's comprehensive plan. When initially established in 1990, and thereafter in the 1997 boundary contraction proceeding, the District demonstrated that the development of the lands within its boundary was consistent with the City of Tampa Comprehensive Plan. The District is fully developed, therefore no additional community planning or development activities will occur with respect to the lands within the boundary of the Amended District.

35. Ms. Stewart's testimony constitutes competent, substantial evidence that the proposed boundary amendment will not be inconsistent with any applicable element of the City of Tampa Comprehensive Plan. There was no evidence to the contrary.

36. Based on the evidence adduced at the hearing, the Amended District will not be inconsistent with any applicable provisions of the City of Tampa Comprehensive Plan.

Section 190.005(1)(e)3. - Whether the area of land within the Amended District is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developable as one functional interrelated community.

37. The Amended District will include approximately 3,130.11 acres, located entirely within the incorporated limits of the City of Tampa.

38. Mr. Moyer testified that the Amended District has sufficient land area, and is sufficiently compact and contiguous to be developed, and has in fact been developed, as one functional, interrelated community, and that the boundary amendment will have no impact on that functionality.

39. Ms. Stewart testified that the area of land within the District was originally developed as a planned community, was previously determined to be of sufficient size, compactness, and contiguity to be developed with facilities and services as one functionally-interrelated community, and that no additional facilities, services, or other development are planned for the lands within the Amended District. No development of facilities or services was originally planned for the contraction parcel. The Amended District was operating as a functionally-interrelated community, even prior to the proposed elimination of the contraction parcel from the District's boundary. The removal of the contraction parcel from the District boundary will result in no duplication or overlap of facilities or

services. As a result, the Amended District remains of sufficient size, compactness, and contiguity to function as one interrelated community.

40. The testimony of Mr. Moyer and Ms. Stewart constitutes competent, substantial evidence that the Amended District will be of sufficient size, sufficiently compact, and sufficiently contiguous to be developed as a single functionally-interrelated community. There was no evidence to the contrary.

Section 190.005(1)(e)4. - Whether the Amended District remains the best alternative available for delivering community development services and facilities to the area that will be served by the Amended District.

41. The District is presently providing infrastructure improvements to the lands within its boundary, with the exception of the contraction parcel. The District does not intend to construct or provide infrastructure improvements within the contraction parcel in the future.

42. Mr. Moyer testified that to date, the District has been the mechanism used to plan, finance, construct, operate, and maintain the public facilities and services within the existing District. The District has already constructed the entirety of the facilities and services needed to serve the Amended District, and is providing the associated maintenance and operations. The proposed amendment will allow for the continued operation of the facilities and services to the lands

within the Amended District's boundary. Accordingly, the Amended District is the best alternative to provide such facilities and services to the area to be served.

43. Ms. Stewart testified that the existing District has provided community development facilities and services effectively and efficiently to the areas served from the date the District was established, and is expected to remain the best alternative available for delivering community development services and facilities. Even after removal of the contraction parcel, the Amended District will be capable of continuing to efficiently finance and oversee the operation and maintenance of necessary capital improvements within the community.

44. Taylor Morrison of Florida, Inc., as the developer of the contraction parcel, will fund the infrastructure, facilities, and services needed to accommodate development within the contraction parcel. After construction, the infrastructure and facilities within the contraction parcel will be conveyed to the City of Tampa, to Hillsborough County, or to an applicable homeowners' association for ownership and maintenance, depending on the type of infrastructure or facilities constructed.

45. The testimony of Mr. Moyer, Ms. Stewart, and Mr. Hotop constitutes competent, substantial evidence that the Amended District remains the best alternative available for delivering

community development services and facilities to the area that will be served by the Amended District. There was no evidence to the contrary.

Section 190.005(1)(e)5. - Whether the community development services and facilities of the Amended District will be incompatible with the capacity and uses of existing local and regional community development services and facilities.

46. Mr. Moyer testified that the services and facilities of the Amended District are those provided by the existing District, and thus are not incompatible with the capacity and use of existing local or regional community development services and facilities.

47. Ms. Stewart testified that the services and facilities to be provided by the Amended District are not incompatible, and in fact remain fully compatible, with the capacities and uses of the existing local or regional community development facilities, and with those provided by the existing District.

48. The testimony of Mr. Moyer and Ms. Stewart constitutes competent, substantial evidence that the community development services and facilities of the Amended District will not be incompatible with the capacity and uses of existing local and regional community development services and facilities. There was no evidence to the contrary.

Section 190.005(1)(e)6. - Whether the area that will be served by the Amended District is amenable to separate special-district government.

49. Mr. Moyer testified that the removal of the contraction parcel will not affect the ability of the Amended District to operate as a separate special district government, and that contracting the boundary of the existing District will limit the area to be served by the government already in place, but will not change the way the unit of government is operating either now or into the future.

50. Ms. Stewart testified that the area within the Amended District remains large enough to comprise its own community with individual facility and service needs, and will continue to constitute an efficient mechanism for providing the necessary capital infrastructure improvements, and ongoing operation and maintenance thereof, to directly serve the development within its boundary. Special district governance is appropriate for the Amended District because it provides a mechanism whereby long-term maintenance obligations can be satisfied by the persons using the facilities and services.

51. The testimony of Mr. Moyer and Ms. Stewart constitutes competent, substantial evidence that the area that will be served by the Amended District is amenable to separate special-district government. There was no evidence to the contrary.

Section 190.005(1)(a)8. - Statement of Estimated Regulatory Costs.

52. In addition to the elements in section 109.005(1)(e), section 190.005(1)(a)(8), requires the preparation and submission of a SERC which meets the requirements of section 120.541. The Petition includes a SERC.

53. Mr. Moyer explained the purpose of the SERC, the economic analysis presented therein, and the data and methodology used in preparing the SERC. Without recitation, his testimony is accepted.

54. The SERC contains an estimate of the costs and benefits to all persons directly affected by the proposed rule to amend the boundary of the District, including the State of Florida and its citizens, the City of Tampa and its citizens, and the property owners within the existing District and the contraction parcel.

55. Aside from nominal costs related to the amendment of rule 42J-1.002, the state and its citizens will only incur modest costs from contracting the District's boundary as proposed. Specifically, state employees will process, analyze, and conduct any public hearings on the Petition to amend the boundary of the District. However, those costs are likely to be minimal because review of the Petition does not include analysis of the development to be served by the District, the Petition

itself provides most of the information needed for state review, the state currently employs the staff needed to conduct the review of the Petition, and no capital expenditure is required to review the Petition.

56. As is the case with the existing District, ongoing state costs related to the Amended District are limited to the receipt and processing of reports that are required to be filed with the state. Costs to the state agencies that will receive and process the Amended District's reports are expected to be minimal. The Amended District is one of many governmental subdivisions required to submit reports to the state. Pursuant to section 189.018, the Amended District will pay an annual fee to the DEO to offset such costs.

57. It is not anticipated that the City will incur costs in reviewing the Petition to amend the boundary of the District, as the District remitted a \$15,000 filing fee to the City to offset any such costs. The City declined to hold a public hearing on the matter, thus avoiding costs related thereto. As is the case with the existing District, annual costs to the City related to the Amended District are expected to be minimal. Since the Amended District is an independent unit of local government, the only annual costs incurred by the City will be the minimal costs of receiving and reviewing reports that are required to be provided to the City.

58. The costs of petitioning for the boundary amendment are being paid entirely by the majority owner of the contraction parcel, Taylor Morrison of Florida, Inc., pursuant to a funding agreement with the District. The District will continue to incur costs for operation and maintenance of its facilities and for its administration. Those costs are paid from annual assessments against properties within the District benefiting from its facilities and its services. Since the contraction parcel has not been assessed and does not benefit from existing District facilities or services, the boundary amendment will not affect the revenues or expenses of the Amended District.

59. The evidence in this case establishes that the SERC meets all requirements of section 120.541.

APPLICABLE LAW

60. This proceeding is governed by sections 190.005 and 190.046 and rule chapter 42-1.

61. The District was established by the adoption of chapter 42J-1 on January 31, 1990, which followed the issuance of a DOAH Recommended Order and Report to the Commission. See In Re: Tampa Palms Open Space and Transportation Community Development District, Petition for a Rule Under Chapter 190, Florida Statutes, DOAH Case No. 89-3654 (DOAH Recommended Order and Report Oct. 18, 1989; Chapter 42J-1 adoption Jan. 31, 1990).

62. In 1997, the original District area of approximately 5,509 acres was contracted by the removal of approximately 2,357 acres. See In Re: Petition to Contract the Tampa Palms Open Space and Transportation Community Development District, DOAH Case No. 96-4213 (DOAH Report and Conclusions Jan. 31, 1997; Rule 42J-1.002 amendment July 31, 1997).

63. Section 190.046(1)(e)1. provides that:

During the existence of a district initially established by administrative rule, the process to amend the boundaries of the district pursuant to paragraphs (a)-(d) shall not permit a cumulative net total greater than 10 percent of the land in the initial district, and in no event greater than 250 acres on a cumulative net basis.

64. Section 190.046(1)(f) provides, in pertinent part, that:

Petitions to amend the boundaries of the district that exceed the amount of land specified in paragraph (e) shall be processed in accordance with s. 190.005, and the petition shall include only the elements set forth in s. 190.005(1)(a)1. and 5.-8. and the consent required by paragraph (g).

65. The District having been initially established by rule 42J-1.001, and having been previously amended by greater than the threshold acreage, this proceeding is governed by the standards in section 190.046(1)(f).

66. Section 109.046(1)(g) provides that:

In all cases of a petition to amend the boundaries of a district, the filing of the

petition by the district board of supervisors constitutes consent of the landowners within the district. In all cases, written consent of those landowners whose land is to be added to or deleted from the district as provided in s. 190.005(1)(a)2. is required.

67. The District obtained consent to the boundary amendment from the property owners within the current District boundary. The filing of the Petition by the District constitutes consent of the landowners within the District. § 190.046(1)(g). The Consent and Joinder of Landowner included as Exhibit 5 of the Petition, and the subsequent Consent and Joinder of Landowner introduced as Exhibit K in this proceeding establish that the District provided the requisite consent of the landowners whose land is to be deleted from the District, thus meeting the landowner consent requirements of section 190.046(1)(g).

68. The District satisfied the statutory notice requirements by providing the City with a copy of the Petition, and paying the required filing fee to the City as required by section 190.005(1)(b). The District also published notice of the local public hearing in the manner required by section 190.005(1)(d).

69. Section 190.005(1) provides, in pertinent part, that:

(1) The exclusive and uniform method for the establishment of a community development district with a size of 1,000 acres or more

shall be pursuant to a rule, adopted under chapter 120 by the Florida Land and Water Adjudicatory Commission, granting a petition for the establishment of a community development district.

(a) A petition for the establishment of a community development district shall be filed by the petitioner with the Florida Land and Water Adjudicatory Commission. The petition shall contain:

1. A metes and bounds description of the external boundaries of the district. Any real property within the external boundaries of the district which is to be excluded from the district shall be specifically described, and the last known address of all owners of such real property shall be listed. The petition shall also address the impact of the proposed district on any real property within the external boundaries of the district which is to be excluded from the district.

* * *

5. A map of the proposed district showing current major trunk water mains and sewer interceptors and outfalls if in existence.

6. Based upon available data, the proposed timetable for construction of the district services and the estimated cost of constructing the proposed services. These estimates shall be submitted in good faith but are not binding and may be subject to change.

7. A designation of the future general distribution, location, and extent of public and private uses of land proposed for the area within the district by the future land use plan element of the effective local government comprehensive plan of which all mandatory elements have been adopted by the

applicable general-purpose local government in compliance with the Community Planning Act.

8. A statement of estimated regulatory costs in accordance with the requirements of s. 120.541.

70. The Petition includes the elements required by section 190.005(1) (a)1. and 5.-8.

71. Section 190.046(1) (a) provides that:

If the petitioner seeks to contract the district, the petition shall describe what services and facilities are currently provided by the district to the area being removed, and the designation of the future general distribution, location, and extent of public and private uses of land proposed for the area by the future land element of the adopted local government comprehensive plan.

72. As established herein, the Petition included the description of services and facilities, and the designation of future public and private land uses as required.

73. As established in section 190.046(1) (f), the Petition is to be processed by application of the standards in section 190.005.

74. Section 190.005(d) provides, in pertinent part, that:

A local public hearing on the petition shall be conducted by a hearing officer in conformance with the applicable requirements and procedures of the Administrative Procedure Act. The hearing shall include oral and written comments on the petition pertinent to the factors specified in paragraph [190.005(1) (e)].

75. Section 190.005(1) (e) provides that:

The Florida Land and Water Adjudicatory Commission shall consider the entire record of the local hearing, the transcript of the hearing, resolutions adopted by local general-purpose governments as provided in paragraph (c), and the following factors and make a determination to grant or deny a petition for the establishment of a community development district:

1. Whether all statements contained within the petition have been found to be true and correct.
2. 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.
3. 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.
4. Whether the district is the best alternative available for delivering community development services and facilities to the area that will be served by the district.
5. Whether the community development services and facilities of the district will be incompatible with the capacity and uses of existing local and regional community development services and facilities.
6. Whether the area that will be served by the district is amenable to separate special-district government.

76. Each of the statutory criteria in section 190.005(1) (e) has been satisfied.

77. The evidence in this proceeding establishes that the statements contained in the Petition are true and correct. § 190.005(1)(e)1., Fla. Stat.

78. The evidence in this proceeding establishes that the amendment of the District's boundary will not be inconsistent with either the applicable local comprehensive plans or the state comprehensive plan. § 190.005(1)(e)2., Fla. Stat.

79. The evidence in this proceeding establishes that, after the removal of the contraction parcel, the District will continue to be of sufficient size, sufficiently compact, and sufficiently contiguous to be developable as one functional interrelated community. § 190.005(1)(e)3., Fla. Stat.

80. The evidence in this proceeding establishes that, after the removal of the contraction parcel, the District will continue to be the best alternative available for delivering community development services and facilities to the remaining areas. § 190.005(1)(e)4., Fla. Stat.

81. The evidence in this proceeding establishes that the services and facilities that will be provided by the District to the expansion areas are not incompatible with the capacity or uses of any local or regional community development services and facilities. See § 190.005(1)(e)5., Fla. Stat.

82. The evidence in this proceeding establishes that, after the removal of the contraction parcel, the District is amenable to separate special-district government.

§ 190.005(1)(e)6., Fla. Stat.

CONCLUSION

Section 190.005(1)(e), as applicable to a petition to amend the boundary of a community development district pursuant to section 190.046(1)(f), provides 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 set forth in section 190.005(1)(e)1. through 6. in determining whether to grant or deny a petition to amend the boundary of a community development district. Based upon the foregoing findings of fact and conclusions of law, the undersigned concludes that the proposed boundary amendment satisfies the statutory requirements, and that there is no reason not to grant the District's request to amend its boundary by removal of the 21.594 acre, more or less, contraction parcel.

DONE AND ORDERED this 25th day of February, 2016, in
Tallahassee, Leon County, Florida.



E. GARY EARLY
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Filed with the Clerk of the
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