

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

IN RE: PETITION TO MERGE  
MEDITERRA NORTH COMMUNITY  
DEVELOPMENT DISTRICT AND  
MEDITERRA SOUTH COMMUNITY  
DEVELOPMENT DISTRICT

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Case No. 17-3730

REPORT TO THE FLORIDA  
LAND AND WATER ADJUDICATORY COMMISSION

D. R. Alexander, Administrative Law Judge of the Division of Administrative Hearings (DOAH), conducted a local public hearing in this case on September 5, 2017, at The Club at Mediterra in Naples, Florida.

APPEARANCES

For Petitioner: Jonathan T. Johnson, Esquire  
Alyssa C. Willson, Esquire  
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STATEMENT OF THE ISSUE

The issue presented in this proceeding is whether the Petition to Merge Mediterra North Community Development District and Mediterra South Community Development District (Petition) meets the applicable criteria in chapter 190, Florida Statutes, and Florida Administrative Code Chapter 42-1. The purpose of the local public hearing was to gather information in

anticipation of quasi-legislative rulemaking by the Florida Land and Water Adjudicatory Commission (Commission).

PRELIMINARY STATEMENT

On May 12, 2017, the Mediterra North Community Development District and Mediterra South Community Development District (Petitioner or Districts) filed their Petition and exhibits with the Commission requesting that the Commission adopt a rule merging the two Districts, with the surviving entity known as Mediterra Community Development District (Merged District). Prior to that time, the Petition and exhibits were delivered to the City of Bonita Springs (City), Lee County, in which the North District is located, and Collier County (County), in which the South District is located. The Department of Economic Opportunity (DEO) was also requested to review the Petition for its compliance with DEO programs and responsibilities. Both the County and the City elected not to hold an optional public hearing on the Petition. On June 28, 2017, the Secretary of the Commission certified that the Petition contained all required elements and referred it to DOAH to conduct a local public hearing, as required by section 190.005(1)(d), Florida Statutes.

Notice of the public hearing was published in accordance with section 190.005(1)(d). At the local public hearing conducted on September 5, 2017, the District presented the testimony, live and written, of Chesley E. Adams, Jr., District

Manager, Secretary, and Financial Advisor to the Districts and accepted as an expert; David K. Robson, a registered professional engineer and accepted as an expert; and Laura DeJohn, AICP, a professional planner and accepted as an expert. Petitioner's Exhibits A through K were accepted in evidence. There were no members of the public that attended the hearing, and except for a letter from the DEO, no written comments were submitted after the local hearing. See Fla. Admin. Code R. 42-1.012(3).

A one-volume Transcript of the hearing has been prepared. Petitioner filed a proposed report of findings and conclusions, which has been considered in the preparation of this Report.

#### Overview of the District

1. Petitioner is seeking the adoption of a rule to merge Mediterra North with Mediterra South with Mediterra South as the surviving entity under the name Mediterra Community Development District.

2. As required by section 190.046(3), prior to filing the Petition, the Districts adopted a merger agreement which, among other things, makes provision for the filing of the Petition, for the intent that Mediterra South remain as the surviving district under the name Mediterra Community Development District, for the proper allocation of the indebtedness so assumed, and for the manner in which the debt shall be retired.

3. The sole purpose of this proceeding was to consider the merger of the Districts as proposed by Petitioner. Information relating to the managing and financing of the service-delivery function of the Merged District was also considered. Because sections 190.046 and 190.005 provide the statutory criteria to be considered, this Report summarizes the evidence relating to each relevant section of the statutes.

#### SUMMARY OF THE RECORD

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

4. Exhibit A consists of the Petition and its exhibits as filed with the Commission. Mr. Adams testified that he is familiar with the Petition, and he generally described the exhibits attached to the Petition.

5. He also testified that he prepared, or had others prepare under his supervision, Exhibit 8 to Exhibit A, the Statement of Estimated Regulatory Costs (SERC).

6. Finally, Mr. Adams testified that the contents of the Petition and the exhibits attached thereto were true and correct to the best of his knowledge.

7. Mr. Robson testified that he is familiar with the Petition and that he prepared, or had others prepare under his supervision, certain of the Petition exhibits. Mr. Robson generally described the Petition exhibits that he or the prior

District Engineer prepared, including Exhibits 3, 4, 5, 6, and 7 to Exhibit A. Finally, he testified that these exhibits were true and correct to the best of his knowledge.

8. Petitioner has demonstrated that the Petition and exhibits are true and correct.

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

9. Ms. DeJohn reviewed the proposed Districts' merger in light of the requirements of the State Comprehensive Plan found in chapter 187, which provides long-range policy guidance for the orderly, social, economic, and physical growth of the State by way of 25 subjects, goals, and policies. Ms. DeJohn identified Subjects 17 and 20 as particularly relevant.

10. Subject 17 of the State Comprehensive Plan, Public Facilities, calls for the timely, orderly, and efficient financing of new facilities. Ms. DeJohn testified that a Merged District will provide the needed infrastructure in a more orderly and efficient manner.

11. Subject 20 of the State Comprehensive Plan, Governmental Efficiency, advocates the elimination of needless duplication of governmental activities through Policy Number 5. Ms. DeJohn testified that a merger in this instance would

eliminate the inherent duplication of having two entities serve one project.

12. Ms. DeJohn testified that the Merged District is not inconsistent with any applicable provisions of the State Comprehensive Plan.

13. Ms. DeJohn also reviewed the Merged District in light of the requirements of the County Comprehensive Plan and the City Comprehensive Plan.

14. Chapter 190 prohibits a community development district from acting in any manner inconsistent with the local government's comprehensive plan. Ms. DeJohn testified that the Merged District would not be inconsistent with any applicable element or portion of the County Comprehensive Plan or the City Comprehensive Plan and will continue to serve as an alternate provider of these infrastructure systems and services to meet the needs of the lands within its boundaries in an orderly way.

15. Petitioner has demonstrated that the Merged District will not be inconsistent with any applicable provision of the State Comprehensive Plan, County Comprehensive Plan, or City Comprehensive Plan.

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

16. The merged District will include approximately 1,674.87 acres, located entirely within the County and the City.

17. Mr. Adams testified that the Merged District is sufficiently sized, compact, and contiguous to allow for the successful delivery of improvements, services, and facilities as one functionally interrelated community.

18. Mr. Robson testified that the area of land within the Districts was intended to be a functionally interrelated community and was operated and developed as one large, multi-use project. Currently, the Districts function reasonably well because of a series of interlocal agreements put in place to ensure there would not be duplicative construction or maintenance activities or any disconnection between projects. In Mr. Robson's opinion, the area to be served is sufficiently contiguous and compact to be served by one district and given the state of development, it is preferable for Mediterra South to be the surviving district. As a result, the Merged District remains of sufficient size, compactness, and contiguity to function as one interrelated community.

19. Petitioner has demonstrated that the Merged District will be of sufficient size, sufficiently compact, and sufficiently contiguous to be developed as a single functionally interrelated community.

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

20. Mr. Adams testified that, based on his experience in district management and operations, the Merged District is the best alternative available to provide community development services and facilities. The Districts will be able to eliminate numerous duplicative administration costs and the Merged District will provide the highest level of services and facilities in the most cost-effective, efficient, and convenient manner to this project. Mr. Adams also testified based on his experience as a financial advisor that the proposed Merged District is the best available alternative for providing economically efficient, focused, professional operations and management. The Merged District should be able to maintain certain infrastructure and community facilities in a more efficient way with only one board making decisions. This increased efficiency should result in a lower operations and maintenance assessment than what has been the case with two independent districts.

21. Mr. Robson testified that the Merged District will reduce duplication and potential inconsistency or disconnect in the maintenance of infrastructure. Mr. Robson further testified that given the nature of the development, the infrastructure



provided, and the continuing maintenance obligations, the best alternative is to merge the Districts and have Mediterra South to be the surviving district.

22. Petitioner has demonstrated that the Merged District is the best alternative available for delivering community development services and facilities to the area that will be served by the Merged District.

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

23. Mr. Adams testified that, based on his experience in district management and operations, the proposed Merged District will not be incompatible with the uses and existing local and regional facilities and services. The facilities and services within the proposed Merged District will not duplicate any available regional services or facilities and are not intended to be different from the services and facilities currently being provided. The proposed merger will not negatively impact the Merged District's ability to successfully manage the Districts' existing services and facilities.

24. Mr. Robson testified that, based on his experience and information provided by the County and City, the services and facilities provided by the Merged District are not incompatible with the capacities and uses of existing local and regional

community facilities and services. The Districts are already providing needed and required public infrastructure which is fully consistent with the existing capacity and facilities in the area. The proposed merger will not change what is being provided and therefore cannot be inconsistent with existing facilities.

25. Petitioner has demonstrated that the community development services and facilities of the Merged 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 Merged District is amenable to separate special-district government.

26. Mr. Adams testified that the area to be included within the proposed Merged District will enhance its ability to function as a separate special-district government. Merging the Districts will streamline decision-making and increase efficiency in levying assessments for operations and maintenance. Mr. Adams further testified that the Merged District will serve as a more efficient mechanism to oversee the maintenance of the capital improvements and that from a financial perspective, having Mediterra South as the surviving entity will be the least confusing to the financial markets and thus more easily understood.

27. Mr. Robson testified that, based on his experience, the area being included within the proposed Merged District is amenable to being served by a separate special-district government. The area is presently being served by the Districts separate from the local general purpose governments. The Merged District will allow the long-term maintenance of infrastructure to be provided by a single entity focused on the entire community.

28. Petitioner has demonstrated that the area that will be served by the Merged District is amenable to separate special-district government.

G. Other requirements imposed by statute or rule.

29. Chapter 190 and rule chapter 42-1 impose specific requirements regarding the Petition and other information to be submitted to the Commission.

#### Elements of the Petition

30. The Commission has certified that the Petition meets all of the requirements of section 190.005.

#### Statement of Estimated Regulatory Costs (SERC)

31. Section 190.005(1)(a)8. requires the Petition to include a SERC, which meets the requirements of section 120.541. The Petition contains a SERC attached as Exhibit 8 to Exhibit A.

32. Mr. Adams explained the purpose of the SERC, the economic analysis presented therein, and the data and methodology used in preparing the SERC.

33. The SERC contains an estimate of the costs and benefits to all persons directly affected by the proposed rule to merge the boundaries of the Districts -- the State and its citizens, the County and its citizens, the City and its citizens, and property owners within the existing Districts.

34. Beyond administrative costs related to rule adoption, the State and its citizens will only incur modest costs merging the Districts as proposed. Specifically, State staff will process, analyze, and conduct a public hearing on the Petition to merge the Districts. These activities will utilize the time of the staff and State officials. However, these costs to the State are likely to be minimal for a number of reasons.

35. As with the current Districts, the ongoing costs to various State entities related to the Merged District relate strictly to the receipt and processing of various reports that the Merged District is required to file annually with the State and various entities. However, the costs to the State agencies that will receive and process the Merged District's reports will be minimal and decline a bit as the State will have to monitor one instead of two districts.

36. It is not anticipated that the County will incur costs in reviewing the Petition, as the District remitted a \$15,000.00 filing fee to the County to offset any such costs. Additionally, the County will not be required to hold any public hearings on the matter, and in fact, declined to hold a public hearing. As with existing Mediterra South, the County will not incur any quantifiable ongoing costs resulting from the ongoing administration of the Merged District.

37. It is not anticipated that the City will incur costs in reviewing the Petition, as the District remitted a \$15,000.00 filing fee to the City to offset any such costs. Additionally, the City will not be required to hold any public hearings on the matter, and in fact declined to hold a public hearing. As with existing Mediterra North, the City will not incur any quantifiable ongoing costs resulting from the ongoing administration of the Merged District.

38. The costs of petitioning for the merger of the Districts will be borne entirely by the landowners within the Districts. Additionally, the Merged District will be an independent unit of local government and all administrative and operating costs incurred by the Merged District relating to the maintenance of infrastructure will be borne entirely by the Merged District and its landowners.

39. Petitioner has demonstrated that the SERC meets all requirements of section 120.541.

Other Requirements

40. Petitioner has complied with the provisions of section 190.005(1)(b) in that the County and City were provided with copies of the Petition and were paid the requisite filing fees prior to Petitioner filing the Petition with the Commission.

41. Section 190.005(1)(d) requires Petitioner to publish notice of the local public hearing in a newspaper of general circulation in the county where the district is located for four consecutive weeks prior to the hearing. The notice was published in a newspaper of general paid circulation in Lee County (Fort Myers News-Press) on August 9, 15, 22, and 29, 2017, and in Collier County (Naples Daily News) on August 8, 15, 22, and 29, 2017.

Other Information

42. Mr. Adams testified that there are no outstanding bonds for Mediterra North and that there will be no adverse impact on the outstanding bonds of Mediterra South which have an outstanding par value in the amount of \$7,235,000.00 in Capital Improvement Revenue Refunding Bonds, Series 2012, and \$3,360,000.00 in Capital Improvement Revenue Refunding Bonds, Series 2013.

43. Mr. Adams also testified that neither District has ever experienced a delay with respect to meeting its debt service obligations under the Indenture. Therefore, the Districts have never experienced an event of default.

44. Mr. Adams further testified that the bonds will continue to be secured by the assessments on the lands within each District. Mediterra South, as the surviving district, will certify for collection and enforce the collection, as necessary, of the assessments on the land within Lee County in the same way it currently does for its bonds secured by assessments on the land within Collier County. The security for the bonds does not change and thus there will be no adverse impact.

#### Public Comment During the Hearing

45. No members of the public attended the hearing or provided testimony at the hearing.

#### CONCLUSIONS

46. This proceeding is governed by chapters 120 and 190 and rule chapter 42-1.

47. The proceeding was properly noticed pursuant to section 190.005 by publication of an advertisement in two newspapers of general paid circulation in Collier and Lee County of general interest and readership, once each week for the four consecutive weeks immediately prior to the hearing.

48. Petitioner has met the requirements of section 190.005(1)(a) regarding the submission of the Petition and satisfaction of the filing fee requirements.

49. Petitioner bears the burden of establishing that the Petition meets the relevant statutory criteria set forth in section 190.005(1)(e).

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

51. All statements contained within the Petition are true and correct.

52. The merger of the Districts is not inconsistent with any applicable element or portion of the State Comprehensive Plan or the effective County or City Comprehensive Plans.

53. The area of land within the Merged District remains of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developable as one functional interrelated community.

54. The Merged District remains the best alternative available for delivering community development services and facilities to the area that will be served by the Merged District.

55. The community development services and facilities of the Merged District will not be incompatible with the capacity



and uses of existing local and regional community development services and facilities.

56. The area to be served by the Merged District remains amenable to separate special-district government.

57. Based on the record evidence, the Petition satisfies all of the statutory requirements and, therefore, there is no reason not to grant Petitioner's request for merger of the two Districts and to formally adopt a rule to merge the Districts' boundaries, as requested by Petitioner.

DONE AND ENTERED this 21st day of September, 2017, in Tallahassee, Leon County, Florida.

*D. R. Alexander*

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Filed with the Clerk of the  
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