

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

IN RE: PETITION TO AMEND THE
BOUNDARY OF THE WIREGRASS
COMMUNITY DEVELOPMENT DISTRICT

Case No. 18-1176

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

On April 24, 2018, a local public hearing was conducted before E. Gary Early, an Administrative Law Judge of the Division of Administrative Hearings (DOAH), at the Offices of Rizzetta & Company, Inc., 5844 Old Pasco Road, Suite 100, Wesley Chapel, Florida.

APPEARANCES

For Petitioner Wiregrass Community Development District:

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STATEMENT OF THE ISSUE

The issue before the Florida Land and Water Adjudicatory Commission (Commission) in this proceeding is whether to grant the Petition of the Wiregrass Community Development District (Petition) to contract the boundary of the Wiregrass Community Development District (District) by removing approximately 2,196.846 acres from the 3,974.294 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 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 January 29, 2018, the District filed the Petition with the Commission. The District previously provided the Petition and its exhibits, along with the requisite filing fee, to Pasco County, Florida (Pasco County).

The Petition seeks to contract the boundary of the District by removing 2,196.846 acres, more or less (the Contraction Parcel), from the 3,974.294 acres, more or less, that comprise the existing District, which will result in a District boundary encompassing 1,777.448 acres, more or less (the Amended District). Within the boundary of the Amended District is a 64.321-acre parcel that is excluded from the boundary of the Amended District (the Excluded Parcel).

On March 2, 2018, 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. On March 30, 2018, the Commission published a Notice of Receipt of Petition in the Florida Administrative Register.

The District is located entirely within Pasco County, Florida. Section 190.005(1)(c) provides that the county 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 timeframe for the optional public hearing expired on March 15, 2018. Pasco County elected not to hold an optional public hearing relative to the proposed boundary amendment.

The local public hearing was held on Tuesday, April 24, 2018, at 1:00 p.m., at the offices of Rizzetta & Company, Inc., 5844 Old Pasco Road, Suite 100, Wesley Chapel, Florida. Petitioner published notice of the local public hearing in accordance with section 190.005(1)(d). At the local public hearing, Petitioner presented the live and written testimony of:

1. Scott Brizendine, an employee of Rizzetta and Company, Inc., who was accepted as an expert in special district management and financial analysis;

2. Michael Ross, an employee of King Engineering Associates, Inc., who was accepted as an expert in land development and public infrastructure construction; and

3. Scott Sheridan, an employee of Locust Branch LLC.

No members of the public appeared at the hearing. The District offered Composite Exhibit A, including as attachments thereto Composite Exhibit SB-1 through Exhibit SB-9; Exhibit B; Composite Exhibit C, including as attachments thereto Exhibit MR-1 and MR-2; and Exhibit D. All exhibits were received in evidence.

The transcript of the local public hearing, with exhibits, was filed with DOAH on May 14, 2018. Petitioner also filed a Proposed Report of Findings and Conclusions on May 14, 2018, which has been considered in the preparation of this Report.

References to statutes are to Florida Statutes (2017), unless otherwise noted.

OVERVIEW

The District is seeking the adoption of an amendment to Florida Administrative Code Rule 42MMM-1 to remove the approximately 2,196.846-acre Contraction Parcel, as described in the Petition. After contraction, the Amended District will contain approximately 1,777.448 acres.

The Contraction Parcel is owned by the following entities: Raymond James Financial, Inc.; Flycatcher Enterprises, LLC;

JHP Real Estate Partnership; Withlacoochee River Electric Cooperative, Inc.; Wiregrass Ranch, Inc.; Solly Branch Holdings, LLC; Jane Hole, LLC; Maggie Pond, LLC; Wesley Chapel Venture, LLC; the Florida Department of Transportation (FDOT); and Pasco County. All provided written consent to the proposed amendment of the District's boundaries, except for FDOT and Pasco County, as they are not considered "landowners" pursuant to Section 190.003(14), from which consent must be obtained.

The District is presently providing certain infrastructure improvements to the lands within its boundaries, with the exception of the Contraction Parcel. Any future facilities or services to be provided to the Contraction Parcel will be provided by a future community development district(s) (CDD) and/or the developer of the Wiregrass Ranch development.

The sole purpose of this proceeding was to consider the amendment of the District boundary as proposed. Information relating to the managing and financing of the service-delivery function of the Amended District was also considered. Inasmuch as sections 190.046 and 190.005 provide the statutory criteria to be considered, this report summarizes the relevant and material evidence relating to each relevant section of the statute.

SUMMARY OF THE RECORD

A. Petition Contents and Related Matters

1. The Petition was submitted to the Commission on January 29, 2018. A copy of the Petition, along with a check in the amount of \$15,025.00, was previously submitted to Pasco County on January 26, 2018.

2. The Petition incorporated the following Exhibits:

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

b. Petition Exhibit 2, which is the metes and bounds description of the existing District boundary as incorporated by reference in Florida Administrative Code Rule 42MMM-1.002.

c. Petition Exhibit 3, which is the metes and bounds description of the Contraction Parcel.

d. Petition Exhibit 4, which is the metes and bounds description of the Amended District after removal of the Contraction Parcel.

e. Petition Exhibit 5, which is the metes and bounds description of the Excluded Parcel.

f. Petition Exhibit 6, which is the last known address of the owner of the Excluded Parcel.

g. Petition Exhibit 7, which is the written Consent and Joinder by which the owners (at the time of the filing of the Petition) of 100 percent of the lands within the Contraction Parcel expressed their consent to the amendment of the boundary of the

District by removal of the Contraction Parcel.

h. Petition Exhibit 8, which is Resolution 2017-05 by which the District's Board of Supervisors has approved and consented to the amendment of the boundary of the District by removal of the Contraction Parcel.

i. Petition Exhibit 9, which is the Future Land Use Map for Pasco County that depicts the distribution, location, and extent of public and private land uses proposed for the Amended District by the future land use elements of the comprehensive plan.

j. Petition Exhibit 10, which is a map of the current major trunk water mains, sewer interceptors, and outfalls within the proposed Amended District.

k. Petition Exhibit 11, which describes the types of facilities and services the District expects to finance, construct and install within the Amended District, and the entities (either the District or Pasco County) that will be ultimately responsible for ownership, operation, and maintenance of the facilities, and their estimated costs.

l. Petition Exhibit 12, which is the Statement of Estimated Regulatory Costs (SERC) prepared in accordance with the requirements of section 120.541, Florida Statutes.

m. Petition Exhibit 13, which is the District's authorization of counsel of record as its agent relative to the boundary amendment.

3. 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 debt service assessments. 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.

4. 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 District expects to finance, construct, and install improvements and facilities to benefit the Amended District over an estimated 22-year period.

5. 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 Pasco County 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.

6. 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

7. Notice of the public hearing was advertised on March 27, 2018; April 3, 2018; April 10, 2018; and April 17, 2018, in the Tampa Bay Times, a newspaper of general paid circulation in Pasco 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.

8. The local public hearing on the Petition was held as noticed on April 24, 2018, at the offices of Rizzetta & Company, Inc., 5844 Old Pasco Road, Suite 100, Wesley Chapel, Florida.

9. The Pre-Filed Written Testimony of Mr. Brizendine, Mr. Ross, and Mr. Sheridan were received as Hearing Exhibits A, C, and D, respectively. The three witnesses also offered live testimony in support of their pre-filed testimony.

10. The affidavit of publication of the Notice of Local Public Hearing in the Tampa Bay Times was received in evidence as Hearing Exhibit B.

11. Mr. Brizendine's pre-filed testimony, Hearing Exhibit A, included the following exhibits, all of which were received into evidence at the hearing:

a. Hearing Exhibit A, Composite Attachment SB-1, consisting of the Petition, including Exhibits 1 through 13 thereto, as more fully described in paragraphs 1 and 2 above.

b. Hearing Exhibit A, Attachment SB-2, consisting of a vicinity map depicting the existing District boundary line, the Contraction Parcel boundary, and the proposed Amended District boundary.

c. Hearing Exhibit A, Attachment SB-3, consisting of correspondence dated January 29, 2018, transmitting the original and 12 copies, and a disk, of the Petition to the Commission.

d. Hearing Exhibit A, Attachment SB-4, consisting of correspondence dated January 26, 2018, transmitting a copy of the Petition to Pasco County, along with a check in the amount of \$15,025.00.

e. Hearing Exhibit A, Attachment SB-5, consisting of correspondence dated March 2, 2018, by which the Commission referred the Petition to DOAH to conduct a local public hearing.

f. Hearing Exhibit A, Attachment SB-6, consisting of the Notice of Receipt of Petition published in the Florida Administrative Register on March 30, 2018.

g. Hearing Exhibit A, Attachment SB-7, consisting of the Notice of Hearing entered by the undersigned.

h. Hearing Exhibit A, Attachment SB-8, consisting of correspondence dated March 2, 2018, by which the Commission provided a copy of the Petition to the DEO.

i. Hearing Exhibit A, Attachment SB-9, consisting of correspondence dated March 23, 2018, by which the DEO indicated that it had not identified any inconsistency in the Petition and chapter 163, part II, Florida Statutes, or the 2025 Comprehensive Plan of Pasco County.

12. Mr. Ross's pre-filed testimony, Hearing Exhibit C, included the following exhibits, all of which were received into evidence at the hearing:

a. Hearing Exhibit C, Attachment MR-1, consisting of the State Comprehensive Plan, chapter 187, Florida Statutes.

b. Hearing Exhibit C, Attachment MR-2, consisting of the Pasco County, Florida Comprehensive Plan (October 2000), including chapters 1 through 13, the Glossary, and Map Appendices thereto.

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

14. The Transcript of the local public hearing, with exhibits, was filed with DOAH on May 14, 2018. The District also filed a Proposed Report of Findings and Conclusions on May 14, 2018, which has been considered in the preparation of this Report.

SUMMARY OF THE TESTIMONY AND EVIDENCE

15. 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.

16. Mr. Brizendine testified as to the accuracy of the information contained in the Petition. He also prepared, or had others prepare under his supervision, Petition Exhibit 12, the SERC. Mr. Brizendine's testimony constitutes competent, substantial evidence of the accuracy of the statements in the Petition and the exhibits attached thereto.

17. Mr. Ross testified that he prepared, or had others prepare under his supervision, Petition Exhibits 1, 2, 3, 4, 5, 9, 10, and 11. Mr. Ross 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, the location and description of the existing major water and sewer trunk lines associated with the parcels of property at issue, and the facilities expected in the Amended District. Mr. Ross's testimony constitutes competent, substantial evidence of the accuracy of Petition Exhibits 1, 2, 3, 4, 5, 9, 10, and 11.

18. Mr. Sheridan testified that he is familiar with the Petition, and that he coordinated the execution of Petition Exhibit 7, the Consent and Joinder of Landowners to the Amendment of the Boundaries of the Wiregrass Community Development District. Mr. Sheridan'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.

19. 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.

20. Mr. Ross reviewed the proposed District boundary amendment for consistency with the State Comprehensive Plan.

21. 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, Mr. Ross 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.

22. Subject No. 15 recognizes the importance of locating development in areas that have the resources, fiscal abilities, and service capacity to accommodate growth. Mr. Ross 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. Mr. Ross'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.

23. Subject No. 17 calls for the protection of existing public facilities and the timely, orderly, and efficient planning and financing of new facilities. Mr. Ross 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 the future facilities and services serving the Contraction Parcel will be provided by a newly established CDD(s). Mr. Ross'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.

24. 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. Mr. Ross testified that allowing the Amended District and the Contraction Parcel to be overseen by separate

CDDs will result in an increased level of coordination between the State, Pasco County, the relevant CDD and its residents and landowners, as the CDDs will be serving a more localized geographical boundary allowing for maximized citizen involvement. Mr. Ross'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.

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

26. Mr. Ross also reviewed the Amended District for consistency with the Pasco County Comprehensive Plan.

27. Chapter 190 prohibits a CDD from acting in any manner inconsistent with the local government's comprehensive plan. When initially established in 2009, the District demonstrated that the development of the lands within its boundary was consistent with the Pasco County Comprehensive Plan. There is nothing in the record of this proceeding to suggest that the contraction of the District's boundaries in the manner proposed will cause the Amended District to be inconsistent with any portion or element of the Pasco County Comprehensive Plan.

28. Mr. Ross's testimony constitutes competent, substantial evidence that the proposed boundary amendment will

not be inconsistent with any applicable element of the Pasco County Comprehensive Plan. There was no evidence to the contrary.

29. Based on the evidence adduced at the hearing, the Amended District will not be inconsistent with any applicable provisions of the Pasco County 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.

30. The Amended District will include approximately 1,777.448 acres, located entirely within Pasco County.

31. Mr. Brizendine 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.

32. Mr. Ross 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. Development within the District, to date, has occurred in two geographically abutting phases which will comprise the Amended District after amendment. Thus, the removal of the Contraction Parcel will allow the lands

within the proposed Amended District to continue to operate as a functionally interrelated community, as it remains of sufficient size, compactness and contiguity.

33. The testimony of Mr. Brizendine and Mr. Ross 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.

34. The District is presently providing infrastructure improvements to the lands within its boundary, with the exception of the contraction parcel. Facilities or services to be provided to the Contraction Parcel will be provided by a future CDD(s) and/or the developer of the Wiregrass Ranch development.

35. Mr. Brizendine 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 majority 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.

36. Mr. Ross 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 that it is 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 its boundaries.

37. Mr. Sheridan testified that a new CDD will be established to finance a portion of the cost of the infrastructure, facilities, and services needed to accommodate development within the Contraction Parcel. The master developer of the lands within the District, Locust Branch, LLC, or its subsidiaries or designees, will fund the remainder of the cost of the construction of the infrastructure, facilities and services needed to accommodate the development of such property that is not funded by a future CDD. After construction, the infrastructure and facilities within the Contraction Parcel will

be conveyed to the future CDD, Pasco County, or to an applicable homeowners' association for ownership and maintenance, as is appropriate depending on the type of infrastructure or facilities that are actually constructed.

38. The testimony of Mr. Brizendine, Mr. Ross, and Mr. Sheridan 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.

39. Mr. Brizendine testified that the services and facilities of the Amended District are identical to 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.

40. Mr. Ross 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.

41. The testimony of Mr. Brizendine and Mr. Ross 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.

42. Mr. Brizendine 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.

43. Mr. Ross testified that the area within the Amended District remains large enough to comprise its own community with individual facility and service needs, as the areas within the District that are currently developed only include lands within the proposed boundary of the Amended District. Moreover, the Amended District 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.

44. The testimony of Mr. Brizendine and Mr. Ross 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.

45. 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.

46. Mr. Brizendine explained the purpose of the SERC, the economic analysis presented therein, and the data and methodology used in preparing the SERC. His testimony is accepted.

47. 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, Pasco County and its citizens, and the

property owners within the existing District and the Contraction Parcel.

48. Aside from nominal costs related to the amendment of rule 42MMM-1.002, the state and its citizens will only incur modest costs from contracting the District's boundary as proposed. 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.

49. It is not anticipated that Pasco County will incur costs in reviewing the Petition, as the District remitted a \$15,025.00 filing fee to Pasco County to offset any such costs. Pasco County 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 Pasco County 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 Pasco County will be the minimal costs of receiving and reviewing reports that are required to be provided to Pasco County.

50. The costs of petitioning for the boundary amendment are being paid entirely by the master developer of the Contraction Parcel, Locust Branch, LLC, pursuant to a funding agreement with the District. The Amended 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.

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

Other Procedural Elements

52. The District has complied with the provisions of section 190.005(1)(b)1., in that Pasco County was provided a copy of the Petition and was paid the requisite filing fee prior to the District filing the Petition with the Commission.

53. Section 190.005(1)(d) required the District to publish notice of the local public hearing in a newspaper of general circulation in Pasco County for four consecutive weeks prior to the hearing. The notice was published in the Tampa Bay Times, a newspaper of general paid circulation in Pasco County on March 27, 2018, April 3, 2018, April 10, 2018, and April 17, 2018.

54. The Commission has certified that the Petition meets all of the requirements of sections 190.046(1)(f) and 190.005(1)(a).

APPLICABLE LAW

55. This proceeding is governed by chapter 120, sections 190.005 and 190.046, and Florida Administrative Code Chapter 42-1.

56. The District was established by the adoption of chapter 42MMM-1, which followed the issuance of a DOAH Report of Administrative Law Judge to the Florida Land and Water Adjudicatory Commission. See In Re: Wiregrass Community Development District, DOAH Case No. 08-3029 (DOAH Report Aug. 28, 2008; Chapter 42MMM-1 adoption June 24, 2009).

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

(1) A landowner or the board may petition to contract or expand the boundaries of a community development district in the following manner:

* * *

(f) Petitions to amend the boundaries of the district [to the extent provided in this case] 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). However, the resulting administrative rule or ordinance may only amend the boundaries of the district and may not establish a new district or cause a new 6-year or 10-year period to begin pursuant to s. 190.006(3)(a)2. The filing fee for such petitions shall be as set forth in s. 190.005(1)(b), as applicable.

(g) In all cases of a petition to amend 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.

58. The Consent and Joinder of Landowners introduced as Exhibit A, Attachment SB-1, Exhibit 7K, establishes that the District provided the requisite consent of the Contraction Parcel landowners, thus meeting the landowner consent requirements of section 190.046(1)(g).

59. The District satisfied the statutory notice requirements by providing Pasco County with a copy of the Petition and paying the required filing fee 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).

60. 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.

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

62. 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.

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

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

65. 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)].

66. 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.

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

68. The evidence in this proceeding establishes that the statements contained in the Petition are true and correct.

§ 190.005(1)(e)1., Fla. Stat.

69. The evidence in this proceeding establishes that the amendment of the District's boundary will not be inconsistent with either the Pasco County Comprehensive Plan or the State Comprehensive Plan. § 190.005(1)(e)2., Fla. Stat.

70. The evidence in this proceeding establishes that, after the removal of the Contraction Parcel, the Amended 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.

71. The evidence in this proceeding establishes that, after the removal of the Contraction Parcel, the Amended 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.

72. 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. § 190.005(1)(e)5., Fla. Stat.

73. 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 CDD 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 the petition. 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 2,196.846-acre, more or less, Contraction Parcel.

DONE AND ENTERED this 25th day of May, 2018, in Tallahassee, Leon County, Florida.



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