

FLORIDA LAND AND WATER ADJUDICATORY COMMISSION AGENDA

November 14, 2006

1. **Approval of the minutes of the meeting held September 19, 2006.**
2. **Consideration of an Amended Petition to Amend the Boundary of the Tomoka Community Development District in Flagler County, Florida. Petitioner: Tomoka Community Development District. (FLWAC Case No. CDD-05-011).**

On November 30, 2005, the Board of Supervisors of the Tomoka Community Development District (District) submitted a Petition to amend the boundary of the District located within Flagler County, Florida. (The Petition was amended during the administrative hearing.) The Petition, as amended, proposes to amend the land area presently serviced by the District by adding approximately 1,122 acres. The District was originally established by Rule 42LL-1, F.A.C., effective October 10, 2003. Petitioner discovered flaws in the legal description of the external boundaries of the District contained in Rule Chapter 42LL-1.002 resulting in the exclusion of significant portions of the lands thought to be included in the original Petition establishing the District. The subject boundary amendment will correct the flaws. The District currently covers approximately 846 acres of land in Flagler County in an area west of Interstate 95, northeast of U.S. Highway 1, south of Old Dixie Highway, and bounded on the east by the Florida Power and Light utility easement. After amendment, the District will encompass approximately 1,968 acres. The District currently contains two out-parcels located within the external boundaries of the District which remain excluded. Petitioner has written consent to amend the boundary of the District from the owners of one hundred percent of the lands comprising the expansion parcel. Development contemplated for the Tomoka CDD, after expansion, consists of 1,586 single family homes, 330 multi-family homes, 18 holes of championship golf, and recreation areas. Services and facilities to be provided by the District for lands within the expansion parcel are included in the District's adopted Improvement Plan and consist of stormwater infrastructure, entrances and landscaping, wetland compliance/mitigation, offsite improvements, and engineering and permitting. The District has already funded, acquired, and/or constructed infrastructure improvements to the expansion parcel. Construction of the improvements is expected to be complete in 2006.

Upon request of the Secretary, the Department of Community Affairs (DCA) reviewed the Petition from the standpoint of their programs and responsibilities, and the requirements of Chapter 190, F.S. The DCA submitted a comment letter on January 4, 2006, finding no potential inconsistency with Chapters 163 and 380, Florida Statutes. In addition, the DCA determined the Petition is consistent with the Flagler County Comprehensive Plan.

Upon request of the Secretary, the Northeast Florida Regional Council reviewed the Petition from the standpoint of their programs and responsibilities, and the requirements of Chapter 190, F.S. The Council submitted a comment letter on January 17, 2006, indicating the District is partially within the Plantation Bay Development of Regional Impact. In addition, the Council indicated any development within the District will have to be consistent with the conditions of the Development Order.

Pursuant to Chapter 190, F.S., a local public hearing was conducted by the Division of Administrative Hearings (DOAH) on February 22, 2006, in Palm Coast, Florida. The DOAH Administrative Law Judge filed a Report with the Commission on May 12, 2006, concluding "...there appears to be no reason not to grant the Amended Petition and amend Rule 42LL-1.002 by adding the expansion parcel to the Tomoka Community Development District, other than perhaps to clarify the discrepancy between the estimated cost of construction in the SERC and the other evidence in the record." The Petitioner provided additional information on May 22, 2006, to clarify the discrepancy noted in the DOAH Report.

Flagler County held a public hearing on February 6, 2006, and adopted Resolution 2006-12 conditionally approving the amendment of the District's boundaries. Flagler County submitted a letter to the Commission on November 1, 2006, indicating the District has complied with all conditions noted in the County's Resolution.

Pursuant to Chapter 120, F.S., notices of proposed rulemaking were published in the *Florida Administrative Weekly*. No public hearings were requested and no written comments were received as a result of the notices.

Recommendation:

Approve the Petition, as amended, to amend the Tomoka Community Development District and authorize the Secretary to file for final rule adoption.

Back-Up:

District Board of Supervisor's Petition received November 30, 2005, and amended at hearing February 22, 2006.

DCA's comment letter received January 4, 2006.

Northeast Florida Regional Council's comment letter received January 17, 2006.

DOAH's Report received May 12, 2006.

Petitioner's response to DOAH's request for clarification received May 22, 2006.

Flagler County Resolution No. 2006-12 adopted February 6, 2006.

Flagler County letter received November 1, 2006

Final rulemaking package.