

**FLORIDA LAND AND WATER ADJUDICATORY COMMISSION
AGENDA**

January 26, 2010

Attachments to the items below can be viewed at the following link:

http://www.myflorida.com/myflorida/cabinet/flwac/20100126_index.html

1. **Request approval of the minutes of the meeting held May 13, 2009.**
2. **Request approval of the minutes of the meeting held May 27, 2009.**
3. **Request authorization to file proposed amendments to 42SS-1.002 for final adoption and to repeal Rule Chapter 42TT-1 to merge the Split Pine Community Development District and the Tolomato Community Development District. (FLWAC Case No. CDD-09-003).**

On March 12, 2009, the Split Pine Community Development District and the Tolomato Community Development District (CDD) filed a joint petition for merger of the two districts. (The joint petition was supplemented with additional information at the request of the Secretary of the Commission.) Split Pine CDD currently covers approximately 2,014.98 acres of land located within Duval County and the City of Jacksonville limits. Tolomato CDD currently covers approximately 11,355.06 acres of land located in northeastern St. Johns County. As a result of the merger, Split Pine CDD would cease to exist, and Tolomato CDD would continue as the surviving entity, with amended boundaries of both Split Pine CDD and Tolomato CDD. Both CDDs were originally established by the Commission by adoption of two separate rules in 2004. Split Pine CDD and Tolomato CDD have written consent to merge the boundaries of the two districts from the owners of 100% of the land within the existing two districts.

Upon request of the Secretary, the Department of Community Affairs (DCA) reviewed the petition, as supplemented, from the standpoint of their programs and responsibilities, and the requirements of Chapter 190, F.S. The DCA submitted a comment letter on June 1, 2009, indicating that no potential inconsistencies with Chapter 163, F.S., were identified.

Pursuant to Chapter 190, F.S., local public hearings were conducted by the Division of Administrative Hearings on July 7 and 27, 2009. Citizen input was received during the administrative hearings. Administrative Law Judge Maloney submitted a Report to the Commission on October 9, 2009.

Petitioners request amendment of Rule 42SS-1.002, FAC, to merge the boundaries of the Split Pine CDD and the Tolomato CDD. Additionally, Petitioners request repeal of Split Pine CDD Rule Chapter 42TT-1.

The Commission authorized rulemaking at the November 17, 2009, Cabinet meeting. Two public comments were received during the rulemaking process. Comments relate to the possibility of future annexation of property.

Staff Recommendation:

Authorize the Secretary to file amendments to Rule 42SS-1.002, FAC, for final adoption and to file for repeal of Rule Chapter 42TT-1.

Back-Up:

Petition received on March 12, 2009. (Previously distributed with 11/17/09 agenda materials.)

Petitioner's supplement to the petition received on April 15, 2009. (Previously distributed with 11/17/09 agenda materials.)

DCA's comment letter received on June 1, 2009. (Previously distributed with 11/17/09 agenda materials.)

Division of Administrative Hearings Report submitted on October 9, 2009. (Previously distributed with 11/17/09 agenda materials.)

Proposed Amendment to Rule 42SS-1.002, FAC. (Previously distributed with 11/17/09 agenda materials.)

Proposed Repeal of Rule Chapter 42TT-1, FAC. (Previously distributed with 11/17/09 agenda materials.)

Public comments received from Ellen Whitmer and Albert Abbatiello during the rulemaking process.

42SS-1.002 final rulemaking package.

42TT-1 final rulemaking package.

4. Request authorization to file proposed Rule Chapter 42NNN-1 for final rule adoption to merge Seven Oaks Community Development District I and Seven Oaks Community Development District II. (FLWAC Case No. CDD-08-006).

On June 24, 2008, the Seven Oaks Community Development District I and the Seven Oaks Community Development District (CDD) II filed a joint petition for merger. (The joint petition was supplemented with additional information at the request of the Secretary of the Commission.) Seven Oaks CDD I was established in 2001 by Pasco County Ordinance 01-03 and currently covers approximately 649.369 acres of land. (The District was originally established under the name Saddlebrook Village CDD and was amended to Seven Oaks CDD I by Pasco County Ordinance 01-22.) Seven Oaks CDD II was established in 2002 by Pasco County Ordinance 02-23 and currently covers

approximately 1,124.053 acres of land. The approval of a merger agreement and petition by the board of supervisors of the district constitutes consent of the merger by the landowners within the district. As a result of the merger, Seven Oaks CDD II would cease to exist, and Seven Oaks CDD I would continue as the surviving entity. Petitioners have requested that the surviving Seven Oaks CDD I be renamed to Seven Oaks CDD.

Upon request of the Secretary, the Department of Community Affairs (DCA) reviewed the petition, as supplemented, from the standpoint of their programs and responsibilities, and the requirements of Chapter 190, F.S. The DCA submitted a comment letter on June 1, 2009, indicating that no potential inconsistencies with Chapter 163, F.S., were identified.

Pursuant to Chapter 190, F.S., a local public hearing was conducted by the Division of Administrative Hearings on July 16, 2009. The supplemented petition and certain exhibits were amended during the administrative hearing. Administrative Law Judge Alexander submitted a Report to the Commission on September 30, 2009.

Petitioners request promulgation of a rule setting forth the name, boundaries, and board of supervisors of the merged Seven Oaks CDD.

The Commission authorized rulemaking at the November 17, 2009, Cabinet meeting.

Staff Recommendation:

Authorize the Secretary to file Rule Chapter 42NNN-1 for final adoption.

Back-Up:

Petitioner's supplements to the petition received on August 29, 2008, and January 26 and April 7, 2009. (Previously distributed with 11/17/09 agenda materials.)

DCA's comment letter received on June 1, 2009. (Previously distributed with 11/17/09 agenda materials.)

Amended petition received on July 16, 2009. (Previously distributed with 11/17/09 agenda materials.)

Division of Administrative Hearings Report submitted on September 30, 2009. (Previously distributed with 11/17/09 agenda materials.)

Proposed Rule Chapter 42NNN-1, FAC. (Previously distributed with 11/17/09 agenda materials.)

Petitioner's revised Statement of Estimated Regulatory Costs filed on January 13, 2010.

42NNN-1 final rulemaking package.

**NOTICE OF FORWARDING APPEALS TO THE
DIVISION OF ADMINISTRATIVE HEARINGS**

Pursuant to Chapter 42-2.008(4), Florida Administrative Code, notice is hereby given that the appeals listed below will be forwarded to the Division of Administrative Hearings for assignment of an administrative law judge and further proceedings, unless a request for consideration is received by the Secretary of the Commission within five calendar days following the January 26, 2010, meeting of the Governor and Cabinet. If a request for consideration is received, the matter will be placed on a subsequent agenda for consideration by the Florida Land and Water Adjudicatory Commission. Requests must be filed with the Secretary of the Commission, The Capitol, Room 1801, Tallahassee, Florida 32399-0001, no later than February 1, 2010.

Case No.

APP-09-007	STATE OF FLORIDA, DEPARTMENT OF COMMUNITY AFFAIRS vs. POLK COUNTY and SAFARI WILD LLC, C/O C. LEX SALISBURY
APP-09-008	DEPARTMENT OF COMMUNITY AFFAIRS vs. MONROE COUNTY, LEO F. WINTERLING and JAMES A. WINTERLING