

FLORIDA LAND AND WATER ADJUDICATORY COMMISSION AGENDA

April 24, 2012

Attachments to the agenda items below can be viewed at the following link:
http://www.myflorida.com/myflorida/cabinet/flwac/20120424_index.html

1. Approval of the minutes of the 8/2/11 and 8/16/11 meetings.

See meeting transcripts at:

<http://www.myflorida.com/myflorida/cabinet/agenda11/0802/trans.html>

<http://www.myflorida.com/myflorida/cabinet/agenda11/0816/trans.html>

2. Request authorization to publish a Notice of Proposed Repeal of Rule Chapter 42DDD-1, Florida Administrative Code, to dissolve the Twin Creeks Community Development District. If no request for a public hearing is received as a result of the notice, request authorization to file the rule chapter for final rule repeal. (FLWAC Case No. CDD-12-001).

This item is before the Commission through a letter filed by South Jacksonville Properties, LLC, (“majority landowner”) requesting repeal of Rule Chapter 42DDD-1, F.A.C., to dissolve the Twin Creeks Community Development District (“Twin Creeks CDD” or “District”).

Dissolution of a community development district is authorized by subsection 190.046(9), F.S. This provision authorizes a district with no outstanding financial obligations and no operating or maintenance responsibilities, to petition the Commission to dissolve the district by repeal of the Commission’s rules. The provision, however, is silent in the situation where a District does not have an active Board to formally take action to submit a dissolution petition to the Commission. As establishment of the District in question was through adoption of Commission Rule Chapter 42DDD-1, Chapter 120, F.S., was reviewed for guidance in addressing this request for repeal. Chapter 120.74, F.S., requires all agencies to review and revise its rules as often as necessary to ensure that its rules are correct and comply with statutory requirements. Specifically, 120.74(1)(c), F.S., requires an agency to delete obsolete or unnecessary rules as they are identified through routine review.

The Twin Creeks CDD was originally created by the Commission in 2007 through adoption of Rule Chapter 42DDD-1 setting forth the name, boundaries, and initial board of supervisors of the District. The District consists of approximately 3,037 acres of land located entirely within the unincorporated boundaries of St. Johns County and has been inactive since establishment.

As noted above, the majority landowner within the District boundaries is South Jacksonville Properties, LLC, owning approximately 2,039.7 acres. The remaining landowners and acreage are:

- Heartwood 23, LLC – 632.0 acres
- Jacksonville Electric Authority (JEA) – 0.5 acres
- Nickmatdan Landbank, LLC/Wells Fargo Bank, NA – 314.0 acres
- St. Johns County School Board – 67.0 acres

As the majority landowner, South Jacksonville Properties, LLC, requests the Commission authorize the repeal of Rule Chapter 42DDD-1 as the rules are obsolete due to the fact that the District has been inactive since establishment. The request and supporting documents demonstrate that the repeal of Rule Chapter 42DDD-1 and the dissolution of the Twin Creeks CDD are in the best interest for the following reasons:

- The District has been inactive since the initial rule chapter was adopted in 2007.
- The District has not held any elections and as such has not had a governing board or a sufficient number of governing board members to constitute a quorum.
- The District has not held any board meetings or taken any action of any kind.
- The District has not filed any of the reports required by Section 189.419, FS.
- The District has not established a registered office or agent.
- There are no current services being provided by the Twin Creeks CDD.
- There are no future services of any kind, nature or description that the Twin Creeks CDD will ever perform or be required to perform.
- The District is not indebted to any person or entity for any amount of money.
- No bonds were issued by the District and therefore the District is not obligated for any type of bond repayments.
- There are no required estimated regulatory costs that are associated with the dissolution of the District.

South Jacksonville Properties, LLC, has provided consent as the majority landowner and provided notification of the filing of the repeal request to the following:

- Affected general public (through an ad published in the *St. Augustine Record* – published in two separate editions, providing a 21-day comment period);
- St. Johns County (notice via letter);
- Department of Economic Opportunity (notice via letter);
- Heartwood 23, LLC (consent provided – Request Exhibit G)
- Nickmatdan Landbank, LLC (consent provided – Request Exhibit G)
- JEA (notice via letter); and
- St. Johns County School Board (notice via letter).

No objections to the request have been received as a result of the repeal notifications. Copies of consent affidavits and no objection documents are contained in the back-up materials.

Upon request of the Secretary, the Department of Economic Opportunity (DEO) reviewed the request from the standpoint of their programs and responsibilities, and the requirements of Chapters 120 and 190, F.S. The DEO submitted a comment letter on March 23, 2012, indicating a review has been completed and the DEO has no comments.

Commission staff requests authorization to publish a Notice of Proposed Repeal of Rule Chapter 42DDD-1 in the *Florida Administrative Weekly*. If no requests for a public hearing are received as a result of the notice, staff requests authorization to file Rule Chapter 42DDD-1 for final rule repeal.

Staff Recommendation:

Authorize the Secretary to: (1) Publish a notice of proposed rule repeal of Rule Chapter 42DDD-1, and (2) File Rule Chapter 42DDD-1 for final repeal if no request for public hearing is received as a result of the notice.

Back-Up:

South Jacksonville Properties' request for repeal (with exhibits) received on January 3, 2012.

South Jacksonville Properties' letter with Affidavit of Publication received on February 13, 2012.

South Jacksonville Properties' letter regarding notices and no objections received on March 6, 2012.

DEO's comment letter received on March 23, 2012.

District owner/location map.

Proposed rule repeal notice.