

FLORIDA LAND AND WATER ADJUDICATORY COMMISSION

AMENDED AGENDA

May 3, 2011

Attachments to the agenda items below can be viewed at the following link:
http://www.myflorida.com/myflorida/cabinet/flwac/20110503_index.html

1. **Approval of the minutes of the November 9, 2010, meeting.**
2. **Request authorization to initiate rulemaking to Merge the Main Street Community Development District and the Rivers Edge Community Development District. (FLWAC Case No. CDD-10-011).**

This item is before the Commission seeking authorization to initiate rulemaking to provide for the merger of the Main Street Community Development District (“Main Street CDD”) and the Rivers Edge Community Development District (“Rivers Edge CDD”). The merger of community development districts is authorized by subsection 190.046(3), FS, and if approved by the Commission, will be accomplished through amendment of existing Commission Rule 42FFF-1.002, FAC.

Background:

The Rivers Edge CDD was originally created by the Commission in 2006 through adoption of Rule Chapter 42FFF-1 setting forth the name, boundaries, and initial board of supervisors of the District. The Rivers Edge CDD consists of approximately 4,086.6 acres of land located within St. Johns County and is generally located in the RiverTown Development of Regional Impact. The lands within the Rivers Edge CDD are primarily residential in character.

The Main Street CDD was created in 2006 by the Board of Commissioners of St. Johns County through adoption of Ordinance No. 2006-40. Main Street CDD currently covers approximately 89.9 acres of land located within St. Johns County and is generally located in the RiverTown Development of Regional Impact. The lands within the Main Street CDD are primarily non-residential in character.

Petition Request, Review & Hearing:

The Petition was filed with the Commission on July 28, 2010, and requests approval of amendments to Rule 42FFF-1.002, FAC, to provide for the merger of the Main Street CDD and the Rivers Edge CDD. As a result of the proposed merger, the Main Street CDD would cease to exist and the Rivers Edge CDD would continue as the surviving entity, with amended boundaries. If approved, the surviving Rivers Edge CDD will contain approximately 4,176.5 acres.

The Petitioners indicate that the merger of the Main Street CDD and the Rivers Edge CDD is in the best interest of both Districts as the proposed merger would:

- Eliminate redundant overhead costs and other expenses;
- Promote greater efficiency in the Districts’ existing joint projects;

- Reduce commercial and residential assessments; and
- Better achieve the original public infrastructure delivery and maintenance plan for the two Districts.

The Board of Supervisors of the Rivers Edge CDD and the Main Street CDD adopted Resolutions 2010-07 and 2010-06, respectively, which approved a Merger Agreement and authorized the preparation and filing of the Petition. Pursuant to Section 190.046(3), FS, the approval of the Merger Agreement and the Petition constitutes consent of all landowners within the Districts. The Board of Supervisors of Rivers Edge CDD will continue to serve on the same terms, in the same positions, and with the same election timetable.

The Merger Agreement provides that all existing bond indebtedness will continue to be secured by the existing debt assessment liens. Rivers Edge CDD currently has no bond indebtedness and, as of July 2010, the current bond indebtedness for Main Street CDD was:

Main Street CDD Bond Indebtedness

- \$13,675,000 (Bond Issue - \$13,980,000 Capital Improvement Revenue Bonds, Series 2008A)
- \$19,350,000 (Bond Issue - \$19,350,000 Capital Improvement Revenue Bonds, Series 2008B)

The Merger Agreement also provides that the merger will not adversely affect the rights of creditors of either district or other parties with whom either district has entered into a contractual relationship.

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, FS. The DCA submitted a comment letter on October 15, 2010, indicating that no potential inconsistencies were identified with Florida's growth management laws or with St. Johns County's comprehensive plan.

Pursuant to Chapter 190, FS, the Petition was forwarded to the Division of Administrative Hearings (DOAH) for a local public hearing. DOAH Administrative Law Judge Johnston conducted a public hearing on October 26, 2010, and submitted a Report to the Commission on December 10, 2010. Judge Johnston concluded, "there appears no reason not to grant the Petition to Merge the Boundaries of the Main Street Community Development District and the Rivers Edge Community Development District. The record supports having Rivers Edge continue to exist as the 'surviving district,' with the landowner election schedule to continue as it presently exists and the existing Rivers Edge board members to remain in office." Petitioner revised the Statement of Estimated Regulatory Cost (SERC) during the DOAH hearing at the request of St. Johns County to provide that included within the improvements described are landscape improvements. Petitioner also submitted an addendum and a revised addendum to the SERC, as revised during hearing, to address recent statutory changes.

Staff Recommendation:

Authorize the Secretary to initiate rulemaking to amend Rule 42FFF-1.002, FAC, to provide for the merger of the Main Street CDD and the Rivers Edge CDD.

Back-Up:

Petition received on July 28, 2010. (Document includes revisions/amendments received subsequent to initial submission of the Petition.)

DCA's comment letter received on October 15, 2010.

DOAH's Report submitted on December 10, 2010.

Draft Notice of Proposed Rule Development amending Rule Chapter 42FFF-1, FAC.

3. Request authorization to initiate rulemaking to Merge the Westchase Community Development District and the Westchase East Community Development District. (FLWAC Case No. CDD-10-004).

This item is brought to the Commission seeking authorization to initiate rulemaking to provide for the merger of the Westchase Community Development District ("Westchase CDD") and the Westchase East Community Development District ("Westchase East CDD"). This action is authorized by subsection **190.046(3), FS**, and is accomplished through adoption of Commission rules setting forth the name of the merged district, boundaries, and board of supervisors.

Background:

The Westchase CDD was originally created by the Hillsborough County Board of County Commissioners in 1991 through Ordinance No. 91-1, as ratified by Hillsborough County Ordinance No. 91-3. The Westchase CDD consists of approximately 741 acres of land located within Hillsborough County.

The Westchase East CDD was created in 1995 by the Hillsborough County Board of County Commissioners through Ordinance No. 95-16. The Westchase East CDD consists of approximately 972 acres of land located in Hillsborough County.

Petition Request, Review & Hearing:

The Petition requests the Commission authorize rulemaking to provide for the merger of the Westchase CDD and the Westchase East CDD. As a result of the proposed merger, the Westchase East CDD would cease to exist, and the Westchase CDD would continue as the surviving entity. The surviving Westchase CDD will contain approximately 1,713 acres.

The Petitioners indicate that the merger of the Westchase CDD and the Westchase East CDD is in the best interest of both Districts as the proposed merger would:

- Promote more streamlined and efficient decision-making and governance;
- Eliminate duplication and overlap to manage and administer property, infrastructure, employees, contractors and accounts and other resources which serve and benefit the entire Westchase community; and
- Reduce duplicative costs, resulting in an ability to provide enhanced public facilities and services, and/or an ability to reduce special assessment to residents and property owners.

The Boards of Supervisors of the Westchase CDD and the Westchase East CDD adopted resolutions, both designated Resolution 2010-1, which approved a Merger Agreement and authorized the preparation and filing of the Petition. Pursuant to Section 190.046(3), FS, the approval of the Merger Agreement and the Petition constitutes consent of all landowners within the Districts. The current Board of Supervisors of Westchase CDD will continue to serve on the same terms, in the same positions, and with the same election timetable.

The Merger Agreement provides that Westchase CDD will assume all indebtedness of, and receive title to, all property owned by Westchase East CDD. The Merger Agreement provides that all existing bond indebtedness will continue to be secured by, and allocated in the same manner as, the existing debt assessment liens. As of the Fiscal Year ended September 30, 2009, the current bond indebtedness for each District was as follows:

Westchase CDD Bond Indebtedness

- \$415,000 (Bond Issue – Series 1991 Special Assessment Revenue Bonds)
- \$2,230,000 (Bond Issue – Series 1996 Special Assessment Revenue Bonds)

Westchase East CDD Bond Indebtedness

- \$1,290,000 (Bond Issue – Series 2000 Special Assessment Revenue Bonds)
- \$1,715,000 (Bond Issue – Series 2007-1 Special Assessment Revenue Refunding Bonds)
- \$2,130,000 (Bond Issue – Series 2007-2 Special Assessment Revenue Refunding Bonds)
- \$4,095,000 (Bond Issue – Series 2007-3 Special Assessment Revenue Refunding Bonds)

The Merger Agreement also provides that the merger will not adversely affect the rights of creditors of either district or other parties with whom either district has entered into a contractual relationship.

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 May 19, 2010, indicating that no potential inconsistencies with Chapter 163, FS, were identified.

Pursuant to Chapter 190, F.S., the Petition was forwarded to the Division of Administrative Hearings (DOAH) for a local public hearing. DOAH Administrative Law Judge Canter conducted a public hearing on September 30, 2010, and submitted a Report to the Commission on February 28, 2011. Judge Canter concluded, "there appears no reason not to grant the petition to merge the districts and thereby create a new Westchase Community Development District by rule of the Commission."

Hillsborough County adopted Resolution No. R10-127 on September 16, 2010, expressing support for the merger of the Westchase CDD and the Westchase East CDD.

Petition Exhibits 3, 4, and 5 were amended through Petitioner's letter received on October 15, 2010, correcting the metes and bounds legal descriptions of the existing districts, the proposed merged district, and the excluded parcels. Revisions to the Petition's Statement of Estimated Regulatory Cost were submitted on April 7, 2011.

Staff Recommendation:

Authorize the Secretary to initiate rulemaking to provide for the merger of the Westchase CDD and the Westchase East CDD.

Back-Up:

Petition received on April 5, 2010. (Document includes revisions/amendments received subsequent to initial submission of the Petition.)

DCA's comment letter received on May 19, 2010.

Hillsborough County Resolution No. R10-127.

DOAH's Report received on February 28, 2011.

Draft Notice of Proposed Rule Development for Rule Chapter 42000-1.