

FLORIDA LAND AND WATER ADJUDICATORY COMMISSION AGENDA

August 16, 2011

Attachments to the agenda items below can be viewed at the following link:
http://www.myflorida.com/myflorida/cabinet/flwac/20110816_index.html

1. **Approval and authorization to finalize rulemaking for proposed Rule Chapter 42000-1, Florida Administrative Code, to reflect the merger of the Westchase Community Development District and the Westchase East Community Development District in Hillsborough County. (FLWAC Case No. CDD-10-004).**

The Commission previously considered proposed Rule Chapter 42000-1, Florida Administrative Code (FAC), at the May 3, 2011, Cabinet meeting. At that time, staff requested authorization to begin rulemaking to create Rule Chapter 42000-1, FAC, to provide for the merger of the Westchase Community Development District (“Westchase CDD”) and the Westchase East Community Development District (“Westchase East CDD”). The Commission granted authorization and staff moved forward with publishing the appropriate rule notices in the Florida Administrative Weekly on May 13, and June 10, 2011. No public hearings were requested and no public comments were received in response to the rulemaking notices. Proposed rule noticing and review requirements have concluded and the item is back before the Commission seeking approval and authorization to file the rule certification package finalizing creation of Rule Chapter 42000-1, FAC, for adoption. The rules created under Rule Chapter 42000-1 are:

- 42000-1.001, Surviving District
- 42000-1.002, Boundary of Surviving District
- 42000-1.003, Supervisors of the Surviving District

Background: (From the May 3, 2011, agenda.)

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:

Approve and authorize the Secretary to file the rule certification documents finalizing proposed Rule Chapter 42000-1, FAC, for final adoption.

Back-Up: (Refer to the May 3, 2011, agenda materials for previously distributed background documents.)

Certification Package for Rule Chapter 42000-1. (Rules 42000-1.001, .002, .003).

2. Approval and authorization to finalize repeal of Rule Chapter 42S-1, Florida Administrative Code, to Dissolve the Circle Square Woods Community Development District in Marion County. (FLWAC Case No. CDD-10-012).

The Commission previously considered repeal of Rule Chapter 42S-1, Florida Administrative Code (FAC), at the June 16, 2011, Cabinet meeting. At that time, staff requested authorization to begin the process to repeal Rule Chapter 42S-1, FAC, the Circle Square Woods Community Development District. The Commission granted authorization and staff moved forward with publishing the appropriate rule repeal notice in the Florida Administrative Weekly on July 1, 2011. No public hearings were requested and no public comments were received in response to the notice. Rule repeal noticing and review requirements have concluded and the item is back before the Commission seeking approval and authorization to file the rule certification package finalizing repeal of Rule Chapter 42S-1, FAC, for adoption.

Background: (From the June 16, 2011, agenda.)

The Circle Square Woods CDD was originally created by the Commission in 1994 through adoption of Rule Chapter 42S-1 setting forth the name, boundaries, and initial board of supervisors of the District. The Circle Square Woods CDD was created to provide water and wastewater services to one portion of the On Top of the World (Central) community in Marion County. Upon initial establishment in 1994, the Circle Square Woods CDD consisted of approximately 2,455 acres of land. Through rule amendment by the Commission in 2002, the CDD was reduced to its current size of 718.75 acres.

Review of Petition:

The Petition filed by the Circle Square Woods CDD on August 12, 2010, as amended on October 12, 2010, requests the Commission authorize the repeal of rules to provide for the dissolution of the Circle Square Woods CDD.

The Petition and supporting documents demonstrate the dissolution of the Circle Square Woods CDD is in the best interest for the following reasons:

- There are no current services being provided by the Circle Square Woods CDD;
- The District and neighboring Bay Laurel Center CDD have entered into an interlocal agreement providing that all services (water, sewer, and reclaimed water) have been assigned and transferred to the Bay Laurel Center CDD, therefore the dissolution will have no negative or adverse impact on any of the properties presently within the District;
- There are no future services of any kind, nature or description that the Circle Square Woods 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 Circle Square Woods CDD and therefore the District is not obligated for any type of bond repayments; and
- There are no required estimated regulatory costs that are associated with the dissolution of the District.

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 December 9, 2010, indicating that no potential inconsistencies with Florida's growth management laws or with Marion County's Comprehensive Plan were identified.

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 February 15, 2011, and submitted a Report to the Commission on March 29, 2011, concluding "there appears no reason not to grant the petition."

Staff Recommendation:

Approve and authorize the Secretary to file the rule certification documents finalizing the repeal of Rule Chapter 42S-1 for final adoption.

Back-Up: (Refer to the June 16, 2011, agenda materials for previously distributed background documents.)

Certification Package for Rule Chapter 42S-1 (Rules 42S-1.001, .002, .003).

3. Approval and authorization to finalize rule repeal of Rule Chapter 42WW-1, Florida Administrative Code, to Dissolve the Coastal Lake Community Development District in Walton County. (FLWAC Case No. CDD-11-001).

The Commission previously considered repeal of Rule Chapter 42WW-1, Florida Administrative Code (FAC), at the June 16, 2011, Cabinet meeting. At that time, staff requested authorization to begin the process to repeal Rule Chapter 42WW-1, FAC, the Coastal Lake Community Development District. The Commission granted authorization and staff moved forward with publishing the appropriate rule repeal notice in the Florida Administrative Weekly on July 1, 2011. No public hearings were requested and no public comments were received in response to the notice. Rule repeal noticing and review requirements have concluded and the item is back before the Commission seeking approval and authorization to file the rule certification package finalizing repeal of Rule Chapter 42WW-1, FAC, for adoption.

Background: (From the June 16, 2011, agenda.)

The Coastal Lake CDD was originally established by the Commission in 2004 through adoption of Rule Chapter 42WW-1 setting forth the name, boundaries, and initial board of supervisors of the District. The Coastal Lake CDD was established to provide planned community development district services to approximately 1,402 acres of land located within Walton County.

Review of Petition:

The Petition filed by the Coastal Lake CDD on February 22, 2011, requests the Commission authorize the repeal of rules to provide for the dissolution of the Coastal Lake CDD.

The Petition and supporting documents demonstrate the dissolution of the Coastal Lake CDD is in the best interest for the following reasons:

- The CDD does not presently have any outstanding financial obligations, and does not have any operating or maintenance responsibilities;
- The CDD does not presently own any real property or infrastructure improvements;
- The CDD does not presently have any outstanding bonds, notes or other debt instruments;
- The CDD does not presently have any debt service special assessments levied against the assessable real property located within the District;
- The CDD does not anticipate providing any future planned community development district services or improvements, or providing any financing for the same. Any future planned community development services to be provided to the lands within the Coastal Lake CDD may be provided by and through the developer, a community association, or other means in a manner as efficiently as the Coastal Lake CDD; may be provided at a level of quality equal to the level of quality to be delivered to the users of those services by the Coastal Lake CDD; and may be provided at an annual cost that would be equal to or lower than the annual assessment amount that could be levied by the Coastal Lake CDD;

- Waste and sewer utilities to the residents within the Coastal Lake CDD are provided by Regional Utilities in Walton County. All remaining services are provided by the WaterSound Community Association, Inc., (homeowner association), pursuant to agreement.
- There will be no negative impact or adverse impacts on any of the landowners within the Coastal Lake CDD; and
- There will be no adverse impact on small businesses located within the Coastal Lake CDD and is not likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in the state within one year after the implementation of the rule repeal.

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 3, 2011, indicating that no potential inconsistencies with Chapter 163, Part II, F.S., or with the Walton County Comprehensive Plan were identified.

Upon request of the Secretary, the West Florida Regional Planning Council (RPC) reviewed the petition from the standpoint of their programs and responsibilities, and the requirements of Chapter 190, F.S. The West Florida RPC submitted a comment letter on May 3, 2011, and indicated that it has not objection to the proposed dissolution of the Coastal Lake CDD.

Staff Recommendation:

Approve and authorize the Secretary to file the rule certification documents finalizing the repeal of Rule Chapter 42WW-1 for final adoption.

Back-Up: (Refer to the June 16, 2011, agenda materials for previously distributed background documents.)

Certification Package for Rule Chapter 42WW-1 (Rules 42WW-1.001, .002, .003).