

**Lee County Board of County Commissioners
Agenda Item Summary**

Blue Sheet No. 20041128

1. REQUESTED MOTION:

ACTION REQUESTED: Direct a non-emergency ordinance creating the Moody River Estates Community Development District to public hearing on November 9, 2004 at 9:30 a.m., or as soon thereafter as it may be heard, in the Commission Chambers.

WHY ACTION IS NECESSARY: Colonial Homes, Inc., has petitioned the Board to establish the Moody River Estates Community Development District.

WHAT ACTION ACCOMPLISHES: Allows response to the petition by providing a forum to evaluate the appropriateness of the request.

2. DEPARTMENTAL CATEGORY:
COMMISSION DISTRICT # 4

C12A

3. MEETING DATE:

09-14-2004

4. AGENDA:

CONSENT

ADMINISTRATIVE

APPEALS

PUBLIC

WALK ON

TIME REQUIRED:

5. REQUIREMENT/PURPOSE:
(Specify)

STATUTE Chapter 190, F.S.

ORDINANCE

ADMIN. CODE

OTHER

6. REQUESTOR OF INFORMATION:

A. COMMISSIONER

B. DEPARTMENT County Attorney's Office

C. DIVISION *Legal Affairs*

BY: Dawn E. Perry-Lehnert

Assistant County Attorney

7. BACKGROUND:

Colonial Homes, Inc., has petitioned the Lee County Board of County Commissioners to adopt an ordinance establishing a Uniform Community Development District (UCDD) in accordance with the Uniform Community Development District Act of Florida, Chapter 190, Florida Statutes ("Act"). Section 190.005(2) sets forth the "exclusive and uniform method for the establishment of a Community Development District of less than 1,000 acres in size." This establishment "shall be pursuant to an ordinance adopted by the County Commission having jurisdiction over the majority of the land in the area in which the district is to be located . . ."

A community development district is a local unit of special purpose government created in accordance with the Act and limited to the performance of those specialized functions authorized by the Act for the delivery of urban community development services. The Act provides an alternative streamlined method for financing the construction, maintenance and operation of major infrastructures necessary for community (continued on second page)

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL:

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
N/A	N/A	N/A	N/A		OA	OM	RISK	GC	<i>1002 9-1-04</i>
					<i>8/30</i>	<i>8/30</i>	<i>8/30</i>	<i>8/30</i>	

10. COMMISSION ACTION:

- APPROVED**
- DENIED**
- DEFERRED**
- OTHER**

CO. ATTY.
FORWARDED TO:
[Signature]

RECEIVED BY
COUNTY ADMIN: *CR*
8/30/04
3:35 PM
COUNTY ADMIN
FORWARDED TO: *PL*
9-1-04
1:25pm

Subject: Direct a non-emergency ordinance creating the Moody River Estates Community Development District to public hearing on November 9, 2004 at 9:30 a.m., or as soon thereafter as it may be heard, in the Commission Chambers.

development. Once a community development district has been established, it serves as an infrastructure management tool that ultimately relieves existing county taxpayers of the financial burden of providing urban services to the landowners in the district.

The proposed Moody River Estates CDD is located on approximately 307.99 acres of land located in North Fort Myers. The land area is bounded on the north Hidden Acres Subdivision, on the west by single-family residential, on the south by Buttonwood Harbor and east by Moody Road and Skyline Woods Subdivision. The property is located in Section 9, 10 and 15, Township 44 South, Range 24 East. The Moody River Estates District will be granted the power to finance, fund, plan, establish, acquire, construct or re-construct, enlarge or extend, equip, operate and maintain systems and facilities for the following basic infrastructure: water management; water supplies; sewer and wastewater management; bridges or culvert; district roads; and other projects within and outside the district boundary for which a Development Order may be issued. Additional powers for recreation and security systems may be requested sometime in the future.

The creation of the Moody River Estates District is not a development order within the meaning of Chapter 380, F.S. All county planning, environmental and land development laws, regulations and ordinances will apply to the development of land within the proposed Moody River Estates District, and the District can take no action that is inconsistent with those regulations.

In accordance with Section 190.005(1)(f), F.S., the proposed ordinance:

1. Establishes the external boundaries of the district.
2. Names the five persons designated to be the initial members of the Board of Supervisors. These members are as follows:
 - a. Tony Persichilli
 - b. John Mirable
 - c. Scott Clark
 - d. Cleve Mortiz
 - e. Manny Hermina
3. Names the district. (Moody River Estates Community Development District)

PLEASE NOTE: F.S. §125.66 does not require a 5:00 p.m. public hearing to provide for adoption of this ordinance. However, if it is the Board's preference, this public hearing may be scheduled for consideration on the November 9, 2004, 5:00 p.m. public hearing agenda.

The proposed ordinance is scheduled for consideration by the Executive Regulatory Oversight Committee on September 8, 2004.

A copy of the Petition is available for review at the Department of Community Development.

Attachment:

Proposed ordinance establishing the Moody River Estates Community Development District

ORDINANCE NO. ____

AN ORDINANCE ESTABLISHING THE MOODY RIVER ESTATES COMMUNITY DEVELOPMENT DISTRICT; PROVIDING A DISTRICT NAME; SETTING FORTH THE AUTHORITY FOR ADOPTING THE ORDINANCE; ESTABLISHING THE EXTERNAL BOUNDARIES OF THE DISTRICT; DESIGNATING THE INITIAL MEMBERS OF THE BOARD OF SUPERVISORS; ESTABLISHING THE GOVERNING DISTRICT CHARTER AS FLORIDA STATUTES CHAPTER 190; PROVIDING FOR NOTICE TO SUBSEQUENT PURCHASERS; PROVIDING FOR CONFLICT, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Colonial Homes, Inc., has petitioned the Board of County Commissioners to establish MOODY RIVER ESTATES COMMUNITY DEVELOPMENT DISTRICT; and

WHEREAS, the Board of County Commissioners, after proper published notice, conducted a local public information-gathering ordinance hearing as required by law and finds as follows:

1. The petition is complete in that it meets the requirements of Section 190.005(1)(a), Florida Statutes; and all statements contained within the petition are true and correct.

2. The Executive Regulatory Oversight Committee has reviewed and approved the petition for establishment of the proposed district.

3. The costs to the County and government agencies from establishment of the district are nominal. There is no adverse impact on competition or employment from district establishment. The persons affected by establishment are the future landowners, present landowners, Lee County and its taxpayers, and the State of Florida. There is a net economic benefit flowing to these persons from district establishment as the entity to manage and finance the statutory services identified. The impact of district establishment and function on competition and the employment market is marginal and generally positive, as is the impact on small business. None of the reasonable public or private alternatives, including an assessment of less costly and less intrusive methods and of probable costs and benefits of not adopting the rule, is as economically viable as establishing the district. Methodology is set forth in the economic impact statement on file. The statement of estimated regulatory costs submitted with this petition to support establishment of the district is adequate.

4. Establishment of the proposed district, whose charter must be in accordance with the general law set forth in Section 190.006 - 190.041, Florida Statutes, is not inconsistent with the local Comprehensive Plan of Lee County or the State Comprehensive Plan.

5. The area of land within the proposed district is of sufficient size, is sufficiently compact and is sufficiently contiguous to be developed as one functional interrelated community.

6. The district is the best alternative available for delivering community development services and facilities to the area that will be served by the district.

7. The community development services and facilities of the district will be compatible with the capacity and uses of existing local and regional community development services and facilities.

8. The area that will be served by the district is amenable to separate special district government.

9. The proposed district, once established, may petition the Board of County Commissioners for consent to exercise one or more of the powers granted by charter in Section 190.012(2), Florida Statutes.

10. Upon the effective date of this Ordinance, the proposed Moody River Estates Community Development District will be duly and legally authorized to exist and exercise all of its general and special powers as limited by law; and has the right to seek consent from Lee County for the grant of authority to exercise special powers in accordance with F.S. 190.012(2), without question as to the district's continued right, authority and power to exercise its limited powers as established by this ordinance.

11. All notice requirements of law were met and complete notice was timely given.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA:

SECTION ONE: DISTRICT NAME

The community development district herein established will be known as Moody River Estates Community Development District.

SECTION TWO: AUTHORITY FOR ORDINANCE

This Ordinance is adopted pursuant to Section 190.005(2), Florida Statutes, and other applicable provisions of law governing county ordinances.

**SECTION THREE: ESTABLISHMENT OF
COMMUNITY DEVELOPMENT DISTRICT**

Moody River Estates Community Development District is hereby established within the boundaries of the real property described in Exhibit "A" attached hereto and incorporated by reference.

SECTION FOUR: DESIGNATION OF INITIAL BOARD MEMBERS

The following five persons are designated to be the initial members of the Board of Supervisors:

- | | | |
|----|------------------|---|
| 1. | Tony Persichilli | Colonial Homes
12601 West Lines Drive, Unit #7
Fort Myers, FL 33913 |
| 2. | John Mirable | Colonial Homes
12601 West Lines Drive, Unit #7
Fort Myers, FL 33913 |
| 3. | Scott Clark | Colonial Homes
12601 West Lines Drive, Unit #7
Fort Myers, FL 33913 |
| 4. | Cleve Mortiz | Colonial Homes
12601 West Lines Drive, Unit #7
Fort Myers, FL 33913 |
| 5. | Manny Hermina | Colonial Homes
12601 West Lines Drive, Unit #7
Fort Myers, FL 33913 |

SECTION FIVE: STATUTORY PROVISIONS GOVERNING DISTRICT

Moody River Estates Community Development District will be governed by the provisions of Chapter 190, Florida Statutes.

SECTION SIX: NOTICE TO SUBSEQUENT PURCHASERS

Any and all agreements for the sale of property within the boundaries of the Moody River Estates Community Development District must include the disclosure statement required in FS §190.048 for the initial sale of the property. This requirement applies to the initial seller of a parcel as well as all subsequent sellers, successors and assigns, for the life of the Moody River Estates Community Development District.

SECTION SEVEN: CONFLICT AND SEVERABILITY

In the event this Ordinance conflicts with any other Lee County ordinance or other applicable law, the more restrictive will apply. If any phase or portion of this Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion will be deemed a separate, distinct and independent provision and such holding will not affect the validity of the remaining portion.

SECTION EIGHT: EFFECTIVE DATE

This Ordinance becomes effective upon filing with the Florida Secretary of State.

THE FOREGOING ORDINANCE was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and, being put to a vote, the vote was as follows:

JOHN E. ALBION	_____
ROBERT JANES	_____
DOUGLAS ST. CERNY	_____
RAY JUDAH	_____
ANDREW W. COY	_____

DULY PASSED AND ADOPTED THIS _____ day of _____, 2004

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Chairman

APPROVED AS TO FORM:

By: _____
Dawn E. Perry-Lehnert
Office of County Attorney