

Lee County Board Of County Commissioners

Blue Sheet No. 20051319

Agenda Item Summary

1. **ACTION REQUESTED/PURPOSE:** Direct to public hearing on the 25th day of October, 2005, at 9:30 a.m., for Board consideration of a non-emergency resolution approving the River Hall Community Development District f/k/a Hawk's Haven Community Development District Petition for Special Powers.

2. **WHAT ACTION ACCOMPLISHES:** The Board must consider the River Hall CDD's petition for the consent of authority to exercise the additional powers set forth in F. S. §190.012(2) (a) & (d), at a public hearing.

3. **MANAGEMENT RECOMMENDATION:** Approve

4. **Departmental Category:** 12

C12A

5. **Meeting Date:**

09-27-2005

6. **Agenda:**

7. **Requirement/Purpose: (specify)**

8. **Request Initiated:**

<input checked="" type="checkbox"/>	Consent
<input type="checkbox"/>	Administrative
<input type="checkbox"/>	Appeals
<input type="checkbox"/>	Public
<input type="checkbox"/>	Walk-On

<input checked="" type="checkbox"/>	Statute	190.012
<input type="checkbox"/>	Ordinance	
<input type="checkbox"/>	Admin. Code	
<input type="checkbox"/>	Other	

Commissioner	
Department	County Attorney
Division	
By:	<i>[Signature]</i> Joan C. Henry

9. **Background**

The River Hall Community Development District is a uniform community development district created by law, established by rule, and adopted by the Florida Land and Adjudicatory Commission on April 21, 2005.

Currently, the District has the power to finance, fund, plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain systems and facilities for the following basic infrastructure: stormwater-management; potable water supply; sewer, and waste water management; bridges or culverts; district roads; and other projects within or without the district boundary for which a development order is issued.

In accordance with Florida Statutes, Section 190.012(2), a community development district must seek consent to exercise the additional special powers granted by its general law charter.

The District has petitioned the Board of County Commissioners to conduct a public hearing for the purpose of adopting a resolution consenting to the District's exercise of the additional powers specifically granted and set forth in Section 190.012(2)(a) & (d), Florida Statutes pertaining to recreation and security systems. The District's request for consent by the County to exercise additional powers granted by statutory charter was considered as part of staff's review when the district was initially established.

(continued on next page)

10. **Review for Scheduling:**

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
					Analyst	Risk	Grants	Mgr.	
				<i>[Signature]</i>	RK 9/15	9/15/05	9/15/05	9/15/05	9-16-05

11. **Commission Action:**

- Approved
- Deferred
- Denied
- Other

CO. ATTY. FORWARDED TO CO. ADMIN. 9/13/05 3:20 PM

RECEIVED BY COUNTY ADMIN. 9-13-05 ml. 4:30 COUNTY ADMIN FORWARDED TO: 9/13/05 4pm

9. Background (cont.)

Because, the District is currently a functioning entity, the focus of the inquiry at the public hearing should not be the appropriateness of the District's establishment. Rather, the focus should be on whether any matter has changed since the District was created and established that would render consent to the exercise of additional powers inappropriate. Staff has reviewed the six factors set forth in 190.005(1)(e), Florida Statutes, in connection with the operation of the District since April 21, 2005, and finds no change in circumstance or condition relevant to those factors that is inconsistent with consent to the exercise of these special powers. The District's request is not inconsistent with, and will always be subject to, the Lee County Comprehensive Plan and all related land development regulations.

The County Attorney's Office and Community Development Planning staff, as evidenced by their attached report, recommend that the Board of County Commissioners' adopt and enact the attached resolution consenting to the River Hall Community Development District for the exercise of the special powers set forth in Section 190.012(2)(a) and (d), Florida Statutes.

Attachments:

Planning Staff Analysis

Draft Resolution Granting Requested Special Powers

**ANALYSIS OF THE RIVER HALL UNIFORM COMMUNITY DEVELOPMENT DISTRICT
PETITION TO PROVIDE ADDITIONAL POWERS**

**Prepared for
Board of County Commissioners
by
Lee County Division of Planning
August 31, 2005**

The Uniform Community Development District Act was originally adopted in 1980. The act sets forth the procedure for the establishment and amendment of such a district, the district's powers and duties for public improvements and community facilities, and additional special powers that the district may petition for. The River Hall Community Development District (previously known as Hawks Haven) was established by the Florida Land and Water Adjudicatory Commission through Rule 42YY-1, Florida Administrative Code on April 21, 2005.

The River Hall Community Development District, hereafter called "District", has petitioned the Lee County Board of County Commissioners to adopt an ordinance consenting to the exercise of certain optional special powers.

The District has its offices located at 3434 Colwell Avenue, Suite 200, Tampa, Florida, 33614. The Chairman of the Board of Supervisors is James Harvey. The property within the district is located on approximately 1,926 acres of land and is located in Lee County, Florida, lying within Sections 25, 26, 27, 34, 35, and 36, Township 43 South, Range 26 East. The land area is bounded on the West by the Hawk's Preserve subdivision, the Portico RPD, and the Buckingham 320 RPD, on the North by State Road 80, undeveloped property, and the Oak Creek subdivision, on the East by conservation lands, and on the South by lots in Lehigh Acres.

When approved, the District was granted the power to finance, fund, plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain systems and facilities for the following basic infrastructure: water management; water supply, sewer, and waste water management; bridges or culverts; district roads; and other projects within or without the district boundary for which a Development Order is issued.

A petition to grant additional powers was received by Lee County from the District on August 2, 2005. Lee County Planning staff has reviewed the petition and finds it to be sufficient. At this time, the District has petitioned the Board of County Commissioners to conduct a hearing for the purpose of adopting an ordinance that will consent to the exercise by the District of the additional powers specifically granted in and set forth in Section 190.012 (2)(a) and (d), Florida Statutes. These powers give the District the ability to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain additional systems and facilities for: parks and facilities for indoor and outdoor recreational, cultural, and educational uses; and, for security, including, but not limited to, guard houses, fences and gates, electronic-intrusion detection systems, and patrol cars. The statutes specifically prohibit the district from exercising any police powers, but the district may contract with the appropriate governmental agency for an increased level of such services within the district boundary.

At the subject hearing the focus of the inquiry will not be the appropriateness of the established district, rather, the focus will be on whether any matter has changed since the district was created and established which would render the consent to the exercise of additional powers inappropriate. Staff has reviewed the six factors set forth in 190.005 (1) (e) Florida Statutes in connection with the operation of the District since April 21, 2005 and can find no change in circumstance or condition relevant to those factors which would be inconsistent with consenting to the exercise of these granted powers. In addition staff finds that granting these powers will afford benefits to the people owning property within the district.

The District's request for consent by the County to exercise additional powers granted by statutory charter is not inconsistent with, and shall always be subject to, the Lee County Comprehensive Plan and all of the County's related land development regulations.

Planning staff recommends that the Lee County Board of County Commissioners adopt an ordinance granting the River Hall Community Development District the ability to exercise the optional special powers as listed under F.S. Section 190.012(2)(a) and (d).

LEE COUNTY RESOLUTION NO.

A RESOLUTION CONSENTING TO THE EXERCISE, BY RIVER HALL COMMUNITY DEVELOPMENT DISTRICT (f/k/a HAWK'S HAVEN COMMUNITY DEVELOPMENT DISTRICT), OF CERTAIN SPECIAL POWERS GRANTED TO THE DISTRICT IN CHAPTER 190.012 (2) (a) AND (d), FLORIDA STATUTES; PROVIDING FOR CONFLICT AND SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the River Hall Community Development District, f/k/a Hawk's Haven Community Development District (District) has been created by law and established pursuant to Rule 42-YY-1 adopted under Chapter 190 by the Florida Land and Water Adjudicatory Commission; and

WHEREAS, the District became effective on April 21, 2005, and is active and in good legal standing; and

WHEREAS, pursuant to Section 190.012, Florida Statutes, part of the District charter grants to the community development district numerous special powers, but provides that the County must consent to the exercise by the District of those special powers in Section 190.012 (2), Florida Statutes, before the District may exercise them; and

WHEREAS, on August 1, 2005, the River Hall Community Development District petitioned the Board of County Commissioners of Lee County, Florida for consent to exercise the special powers granted by Section 190.012 (2)(a) & (d), Florida Statutes; and

WHEREAS, staff review of the operations and functions of the River Hall Community Development District and all related information confirms there is no change of circumstances or conditions since the District was established, and as such consent to the exercise of the special powers set forth in the petition is appropriate; and

WHEREAS, the Board of County Commissioner of Lee County, Florida has confirmed that the district government has the capability of providing these additional powers; and

WHEREAS, the consent to exercise the powers is not inconsistent with, will always be subject to and will comply with the Lee County Comprehensive Plan and all related regulations governing the use of land served by the District; and

WHEREAS, the Board of County Commissioners desires to consent to the exercise by River Hall Community Development Districts of these additional special powers.

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

SECTION ONE: AUTHORITY FOR RESOLUTION

This Resolution is adopted pursuant to Section 190.012 (2), Florida Statutes.

SECTION TWO: CONSENT TO THE EXERCISE OF OPTIONAL SPECIAL POWERS

The Lee County Board of County Commissioners hereby consents to the exercise by the River Hall Community Development District of the additional special powers granted in Section 190.012 (2)(a) & (d), Florida Statutes, as part of its statutory charter.

More specifically, the District is granted by its charter and this resolution, so long as it is in compliance with, and subject to, the County plans, permits, and regulations, the power to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain additional systems and facilities: for parks and facilities for indoor and outdoor recreational, cultural, and educational uses; and for security, including, but not limited to, requisite personnel and equipment.

SECTION THREE: STATUTORY PROVISIONS CONSTITUTING THE CHARTER DISTRICT

The charter of the River Hall Community Development District is in 190.006 - 190.041, Florida Statutes.

SECTION FOUR: CONFLICT AND SEVERABILITY

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

SECTION FIVE: EFFECTIVE DATE

This resolution will become effective upon passage.

The foregoing resolution 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:

ROBERT JANES
DOUGLAS ST. CERNY
RAY JUDAH
TAMMY HALL
JOHN ALBION

PASSED AND DULY ADOPTED by the Board of County Commissioners of Lee County, Florida, this _____ day of _____, 2005.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Douglas St. Cerny, Chairman

APPROVED AS TO FORM

By: _____
Office of the County Attorney

(STATE OF FLORIDA)
(COUNTY OF LEE)

I, Charlie Green, Clerk of Courts in and for the Twentieth Judicial Circuit, do hereby certify that the foregoing is a true original of:

RESOLUTION NO.

which was adopted by the Board of County Commissioners of Lee County, Florida during Regular Session on the _____ day of _____, 2005.

Charlie Green,
Clerk of Courts and Clerk
Ex-Officio to the Board
of County Commissioners

By: _____
Deputy Clerk