

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

**DATE CRITICAL
Blue Sheet No. 20061255**

1. ACTION REQUESTED/PURPOSE: Direct an ordinance creating the Oak Creek Community Development District to public hearing on November 14, 2006 at 9:30 a.m.

2. WHAT ACTION ACCOMPLISHES: Allows response to EH/Transeastern, LLC's petitioned request to establish the Oak Creek Community Development District by providing a forum to evaluate the appropriateness of the request. If adopted, the ordinance will create an independent Special District capable of financing and servicing the basic services within the District boundary.

3. MANAGEMENT RECOMMENDATION:

4. Departmental Category: C12B				5. Meeting Date: October 10, 2006 @ 9:30 a.m.	
6. Agenda:		7. Requirement/Purpose: (specify)		8. Request Initiated:	
<input checked="" type="checkbox"/> X	Consent	<input checked="" type="checkbox"/> X	Statute	Ch. 190, F.S.	
	Administrative		Ordinance	Commissioner	County Attorney's Office
	Appeals		Admin. Code	Department	Lane Use
	Public		Other	Division	
	Walk-On			By: <i>John J. Fredyma</i>	
				John J. Fredyma Assistant County Attorney	

9. Background: EH/Transeastern, LLC has petitioned the Lee County Board of County Commissioners to adopt an ordinance establishing a Community Development District 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 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.

(continued on second page)

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services	County Manager/P.W. Director
				<i>[Signature]</i>	Analyst: <i>RK 9/26</i> Risk: <i>[Signature]</i> Grants: <i>RK 9/26</i> Mgr.: <i>[Signature]</i>	<i>[Signature]</i>

11. Commission Action:

- Approved
- Deferred
- Denied
- Other

CO. ATTY.
FORWARDED
TO CO. ADMIN.
9/25/06 4:14

RECEIVED BY
COUNTY ADMIN: *RK*
9/26/06 7:50 AM
COUNTY ADMIN
FORWARDED TO: *PC*
9/26/06
4:14

The proposed Oak Creek Community Development District is located on approximately 303 contiguous acres, more or less, of land located wholly within unincorporated Lee County. The land area is bounded on the north and east by the Seaboard Coastline Railroad and I-75; on the south by Williams road and vacant land; and on the west by vacant land and single family homes. The property is located in Sections 17, 19 & 20, Township 43 South, Range 25 East. The Oak Creek Community Development 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; streetlights; conservation areas; and other projects within and outside the district boundary for which a Development Order may be issued.

The creation of the Oak Creek Community Development 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 Oak Creek Community Development 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. Paul Leikert
 - b. Marc Schneiderman
 - c. Joseph Crank
 - d. Linda Sloman
 - e. Mary Anne Crowell
3. Names the district: Oak Creek Community Development District

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

Attachments:

1. Proposed Ordinance establishing the Oak Creek Community Development District
2. Staff Report

LEE COUNTY ORDINANCE NO. 06- _____

AN ORDINANCE ESTABLISHING THE OAK CREEK COMMUNITY DEVELOPMENT DISTRICT; NAMING THE DISTRICT; PROVIDING FOR THE AUTHORITY OF THE ORDINANCE; ESTABLISHING AND DESCRIBING THE EXTERNAL BOUNDARIES OF THE COMMUNITY DEVELOPMENT DISTRICT; DESIGNATING THE INITIAL MEMBERS OF THE BOARD OF SUPERVISORS; ESTABLISHING THE INITIAL POWERS OF THE COMMUNITY DEVELOPMENT DISTRICT; ESTABLISHING THE STATUTORY PROVISIONS GOVERNING THE COMMUNITY DEVELOPMENT DISTRICT; ESTABLISHING ADDITIONAL CONDITIONS IMPOSED ON THE COMMUNITY DEVELOPMENT DISTRICT; PROVIDING FOR CONFLICT AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, EH/Transeastern, LLC, has petitioned the Lee County Board of County Commissioners to establish THE OAK CREEK COMMUNITY DEVELOPMENT DISTRICT, a Uniform Community Development District (UCDD), pursuant to the Uniform Community Development District Act of 1980, Chapter 190, Florida Statutes; and

WHEREAS, the Lee County 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 §190.005(1)(a), Florida Statutes; and all statements contained within the petition are true and correct.

2. 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 ordinance, 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 of this petition on district establishment is adequate.

3. Establishment of the proposed district, whose charter is consistent with §§190.006 - 190.041, Florida Statutes, was created by general law, is not inconsistent with the local Comprehensive Plan of Lee County or the State Comprehensive Plan.

4. 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.

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

6. 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.

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

8. 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 §190.012(2), Florida Statutes.

9. Upon the effective date of this Ordinance, the proposed Oak Creek 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.

10. 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 AND LEGAL DESCRIPTION

The community development district herein established will be known as the Oak Creek Community Development District.

SECTION TWO: AUTHORITY FOR ORDINANCE

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

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

The Oak Creek Community Development District is hereby established within the boundaries of the real property located in Lee County, Florida, and described in Exhibit "A" attached hereto and incorporated by reference.

**SECTION FOUR: DESIGNATION OF INITIAL MEMBERS
OF THE BOARD OF SUPERVISORS**

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

- | | | |
|----|-------------------|---|
| 1. | Paul Leikert | 3300 University Drive, Suite 100
Coral Springs, FL 33605 |
| 2. | Marc Schneiderman | 9400 Gladiolus Drive
Fort Myers, FL 33908 |
| 3. | Joseph Crank | 9400 Gladiolus Drive
Fort Myers, FL 33908 |
| 4. | Linda Sloman | 9400 Gladiolus Drive
Fort Myers, FL 33908 |
| 5. | Mary Anne Crowell | 9400 Gladiolus Drive
Fort Myers, FL 33908 |

**SECTION FIVE: INITIAL POWERS OF
THE COMMUNITY DEVELOPMENT DISTRICT**

Upon the effective date of this Ordinance, the proposed Oak Creek Community Development District will be duly and legally authorized to exist and exercise all of its powers in accordance with §§190.011 and 190.012(1), Florida Statutes, subject to any conditions imposed herein; and has the right to seek consent from Lee County for the grant of authority to exercise additional special powers in accordance with §190.012(2), Florida Statutes.

**SECTION SIX: STATUTORY PROVISIONS GOVERNING
THE COMMUNITY DEVELOPMENT DISTRICT**

The Oak Creek Community Development District will be governed by the provisions of Chapter 190, Florida Statutes,

**SECTION SEVEN: ADDITIONAL CONDITIONS IMPOSED ON THE
COMMUNITY DEVELOPMENT DISTRICT**

The Oak Creek Community Development District will also be subject to the following additional condition:

Any and all agreements for the sale of property within the boundaries of the Oak Creek Community Development District must include the disclosure statement required in Section 190.048, Florida Statutes, for the initial sale of the property. This requirement applies to the initial seller of the property as well as all subsequent sellers, successors and assigns for the life of the Oak Creek Community Development District.

SECTION EIGHT: 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 NINE: EFFECTIVE DATE

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

Commissioner _____ made a motion to adopt the foregoing ordinance, seconded by Commissioner _____. The vote was as follows:

ROBERT P. JANES	_____
DOUGLAS R. ST. CERNY	_____
RAY JUDAH	_____
TAMMARA HALL	_____
JOHN E. ALBION	_____

DULY PASSED AND ADOPTED THIS _____ DAY OF NOVEMBER 2006.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Tammara Hall, Chairwoman

APPROVED AS TO FORM:

By: _____
John J. Fredyma
Assistant County Attorney
Office of County Attorney

EXHIBIT "A"

Legal DESCRIPTION

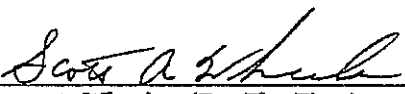
Parcel in
Sections 17, 19 & 20, Township 43 South, Range 25 East
Lee County, Florida

A tract or parcel of land lying in Sections 17, 19 and 20, Township 43 South, Range 25 East, Lee County, Florida. Said tract or parcel being those lands described in deed recorded in Official Record Book 2603, Page 3632; Official Record Book 1518, Page 1649; Official Record Book 3212, Page 659; Official Record Book 3212, Page 642; Official Record Book 1059, Page 139; Official Record Book 1059, Page 137; Lee County Records. Said tract or parcel being more particularly described as follows:

Beginning at the southwest corner of the southwest quarter (SW ¼) of said Section 17 run N00°06'34"W along the west line of said fraction for 1,802.86 feet to an intersection with the southwesterly line of the Seaboard Coast Line Railroad as described in Deed Book 17, Pages 248 and 249, Lee County Records; thence run S45°46'33"E along said southwesterly line for 4,463.79 feet to an intersection with the south line of the northwest quarter (NW ¼) of the northeast quarter (NE ¼) of said Section 20; thence run S89°35'12"W along the south line of said fraction for 569.98 feet to the northeast corner of the southeast quarter (SE ¼) of the northwest quarter (NW ¼) of said Section 20; thence run S00°02'58"W along the east line of said fraction for 1,335.70 feet to the southeast corner of said fraction; thence run S89°35'46"W along the south line of the northwest quarter (NW ¼) of said section 20 for 2,649.00 feet to the southwest corner of said fraction; thence run S00°10'14"E along the east line of the northeast quarter (NE ¼) of the southeast quarter (SE ¼) of said section 19 for 1,335.96 feet to the southeast corner of said fraction; thence run S89°02'55"W along the south line of said fraction for 298.24 feet to an intersection with the centerline of William's Road; thence run N43°43'44"W along said centerline for 168.94 feet to a point of curvature; thence continuing along said centerline run northwesterly along the arc of said curve to the right of radius 3,125.43 feet (delta 04°17'59") (chord bearing N41°34'45"W) (chord 234.49 feet), for 234.55 feet to a point of tangency; thence continuing along said centerline run N39°25'45"W for 1,190.43 feet to an intersection with the west line of said fraction; thence run N00°11'23"E along said west line for 101.73 feet to the northwest corner of said fraction; thence run N00°32'23"E along the west line of the east half (E 1/2) of the northeast quarter of said Section 19 for 2,652.91 feet to the northwest corner of said fraction; thence run N88°20'13"E along the north line of the northeast quarter (NE ¼) of said section 19 for 1,322.60 feet to the POINT OF BEGINNING.

Containing 303.34 acres, more or less.

Bearings hereinabove mentioned are State Plane for the Florida West Zone (NAD 1983/90 adjustment) and are based on the north line of the northwest quarter (NW ¼) of said Section 20 to bear N89°32'23"E.

 1/25/06
Scott A. Wheeler (For The Firm)
Professional Surveyor and Mapper
Florida Certificate No. 5949

L:\21797 -Oakcreek\Descriptions\21797s06_Exhibit 2.doc

PLANNING DIVISION
M E M O R A N D U M



to: John Fredyma, Assistant County Attorney
from: Paul O'Connor, AICP, Director of Planning
subject: Oak Creek UCDD
date: September 15, 2006

2006 SEP 18 AM 10:18
RECEIVED BY
LEE CO. ATTORNEY

Planning staff has completed its review of the petition to establish the Oak Creek Uniform Community Development District. Attached is the staff report being issued by the Lee County Division of Planning recommending approval of the establishment of the UCDD with the basic systems, facilities and services provided under Section 190.012(1), F.S. Please note that several pages of the petition have been updated by the petitioner and the revised petition is attached.

Planning staff is requesting that notice of any scheduled hearings or meetings concerning this petition be forwarded to us.

ANALYSIS OF
THE OAK CREEK
PETITION TO ESTABLISH A
UNIFORM COMMUNITY
DEVELOPMENT DISTRICT

Prepared for
BOARD OF COUNTY COMMISSIONERS

by
LEE COUNTY DIVISION OF PLANNING

September 15, 2006

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INTRODUCTION

EH/Transeastern, L.L.C. has petitioned the Board of County Commissioners of Lee County, Florida to adopt an ordinance to establish a Uniform Community Development District (UCDD) and to designate the land area within which the UCDD may manage and finance basic infrastructure systems, facilities and services pursuant to the Uniform Community Development District Act of Florida, Chapter 190, Florida Statutes and Rule 42-1, Florida Administrative Code. The Uniform Community Development District Act was originally adopted in 1980. The act sets forth the procedure for the establishment of such a district, the district's powers and duties for public improvements and community facilities, and additional special powers that the district, after its establishment, may petition for.

If approved the district will be 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 inside or outside the district boundary for which a Development Order is issued.

BACKGROUND

EH/Transeastern, L.L.C., hereafter called "Petitioner", is a foreign limited liability company with its principal place of business located at 3300 University Drive, Suite 001, Coral Springs, Florida, 33065 and whose managing member is TE/Tousa Senior, L.L.C.

F.S. 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 granting a petition for the establishment of a community development district."

The Petitioner proposes to establish a Uniform Community Development District on approximately three hundred and three (303±) acres of land located in Lee County, Florida and lying within Sections 17, 19, and 20, Township 43 South, Range 25 East. The property is located north of Bayshore Road and west of I-75 in the Bayshore area. A map showing the land area to be served by the District and a metes and bounds description of the external boundaries of the District is set forth in Exhibits A and B of the petition. The land area is bounded on the west by vacant land, single family homes, I-75, and the Seaboard Coastline Railroad to the north, Williams Road and vacant lands to the south, and vacant lands and I-75 to the East. There are no parcels within the external boundaries of the proposed District which are to be excluded from the District.

Adopting the ordinance and granting the petition would authorize the district, through its board of supervisors, to manage and finance certain basic infrastructure for the benefit of the landowners in the community. This infrastructure, or basic systems, facilities and

services, under Section 190.012(1), F.S., includes four basic types: water supply; sewers and wastewater management; water control and management (drainage); and, roads, bridges and streetlights, as well as "other projects" as specified under Section 190.012(1)(f), Florida Statutes.

In order to provide the basic systems, facilities and services, the district has certain management and financing powers. However, these powers may be exercised only if the district complies with certain strict and detailed procedural requirements. These include: ethics in government; disclosure; conflict of interest requirements; noticed meetings; government-in-the-sunshine conduct; accounting and reporting requirements to various local and state agencies; consultants competitive negotiations procedures; competitive bidding procedures; and others. In addition to complying with these many procedural requirements, the district still may not manage and finance any of these services and facilities without a showing that development of the properties complies with all legitimate policies, constraints, authorities, controls or conditions on the development of the land, whether local, regional, state or federal in nature, and whether in the form of policies, laws, rules, regulations or ordinances. The district itself is not considered "development." Rather, the district is an alternative mechanism to assure the County and the landowners of the particular land in question that basic systems, facilities and services will be managed and financed in an efficient and economical way.

In order to provide these services, the district is also given certain eminent domain powers, within the very tight constraints summarized above, as well as the authority to require service charges, fees or taxes for the various services rendered, ranging from installation of capital facilities to long-term maintenance and repair. Without the County's consent by resolution, the aforementioned eminent domain power is limited to the boundaries of the district. The district may also issue non-ad valorem special assessment bonds, revenue and other user bonds, and general obligation bonds. However, no general obligation bonds can be issued without a referendum and without a showing that it will not exceed 35 percent of the assessed valuation of the property within the district.

Accordingly, if the County adopts the ordinance and establishes the district, the Oak Creek Community Development District will then be an infrastructure management tool. This pinpointed responsibility can benefit the landowners with timely, efficient, reliable and flexible services. It serves as a concurrency management tool for the County, the landowners, the developer and, ultimately, the residents. In addition, the district would be a financing tool providing financial incentives for long-range and high quality service benefits to initial and subsequent landowners without burdening Lee County and its taxpayers.

Finally, such a district may not outlive its practical utility and usefulness. If it ceases to function it will automatically be disbanded by state law. If at any time during its existence Lee County determines by a non-emergency ordinance that it can provide any one of the district services in a more economical manner, over the long term, at lower cost with higher

quality, Lee County may then take that service away from the district and provide the service itself.

THE PETITION

The statutes require that a petition be filed containing the following information:

- a metes and bounds description of the external boundaries of the district and the impact of the proposed district on property within the external boundaries of the district which is excluded from the district;
- the consent of the property owners;
- the designation of the initial members of the board of supervisors;
- the proposed name of the district;
- a map of the proposed district showing current major trunk water mains and sewer interceptors and outfalls if in existence;
- the proposed timetable and estimated cost of constructing the proposed services;
- the designation of the future general distribution, location, and extent of public and private uses of land; and,
- a statement of estimated regulatory costs.

Such a petition was received from the Petitioner by Lee County on May 31, 2006. In order to assist the Commission and its staff in reviewing the petition, supplemental materials were requested and were furnished by the Petitioner. The Petition and supplemental materials have been incorporated into this analysis. Planning staff's review of the petition finds the submittal to be sufficient.

FACTORS TO BE CONSIDERED

In accordance with F.S. 190, Lee County is required to consider the following six factors in making a determination to grant or deny a petition for the establishment of a community development district:

1. Whether all statements contained within the petition have been found to be true and correct.

2. Whether the creation of the district is inconsistent with any applicable element or portion of the state comprehensive plan or of the effective local government comprehensive plan.
3. Whether the area of land within the proposed district is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developable as one functional interrelated community.
4. Whether the district is the best alternative available for delivering community development services and facilities to the area that will be served by the district.
5. Whether the community development services and facilities of the district will be incompatible with the capacity and uses of existing local and regional community development services and facilities.
6. Whether the area that will be served by the district is amenable to separate special-district government.

The obligation of the Board of County Commissioners is to consider the six factors using the information in the petition and its attachments, any other documents and information that have been filed. The key decisions to be made by the Board in establishing a district is simply whether it is a reasonable thing to do in view of the six factors which the law requires Lee County to analyze.

It should be noted that these factors are not specific criteria nor are they legal permit requirements or standards. Neither are they the basis for rendering any kind of final order or judgement. In accordance with F.S. 190.004(3) the creation of a community development district is not a development order with the meaning described in Chapter 380. All governmental planning, environmental, and land development laws, regulations, and ordinances apply to the development of the land within a community development district.

STAFF ANALYSIS OF FACTORS

Planning staff has reviewed the petition and accompanied materials. Following is staff's determination of the petition's applicability to each of the six factors.

Concerning Factor #1: Staff concludes that all statements contained within the petition are true and correct. This determination applies to the petition and all of its Exhibits. Concerning petition Exhibit G, staff agrees with the statement of estimated regulatory costs that there is no adverse impact on small businesses. In fact there could be positive impacts due to the opportunity for small businesses to bid on work within the district. Staff also concurs with the methodology employed in the statement of estimated regulatory costs.

Concerning Factor #2: Staff concludes that the creation and establishment of the district is not inconsistent with any applicable element or portion of either the state comprehensive plan or the Lee County local government comprehensive plan, the Lee Plan. In fact, the establishment of the district is affirmatively consistent with Section 187.201(21)(b)(2) F.S., which encourages restructuring political jurisdiction with the goal of greater efficiency. It is also consistent with Policy 1.1.5, Policy 1.4.1, and Objective 1.5 of the Lee Plan, the Suburban, Rural, and Wetlands future land use categories. The request is consistent with Objective 2.2, Development Timing, which directs “new growth to those portions of the Future Urban Areas where adequate public facilities exist or are assured and where compact and contiguous development patterns can be created.”

Concerning Factor #3: Planning staff has determined that the area of the land within the proposed district is of sufficient size, is sufficiently compact, and sufficiently contiguous to be developable as one functional interrelated community on the site.

Concerning Factor #4: Planning staff has reviewed the three fundamental alternatives available for managing and financing those basic systems, facilities and services for the Oak Creek development area. One alternative is for Lee County government to directly provide those services by creating a dependent district or, by directly managing the infrastructure but financing it through a Municipal Services Taxing Unit (MSTU) or Municipal Services Benefit Unit (MSBU). The other alternative is purely private, through a homeowners' association, or through a private company or utility established by the landowners. The third alternative, the Uniform Community Development District, coincides the public policy interests and duties of local government with the private marketing interests and duties of private landowners.

Planning staff has reviewed these three alternatives with regard to the site and concludes that the establishment of a Uniform Community Development District is one of the best alternatives available for delivering community development services and facilities to the area that will be served by the district. Staff has further concluded that establishment of the district is compatible with the function of existing units of local government or that any issues have been or may be adequately addressed by interlocal agreement.

Concerning Factor #5: Staff has reviewed the issue of the capacity and uses of any existing local and regional community development services and facilities. Currently the subject area is located within Lee County Utilities water service area and North Fort Myers Utility sewer service area. The establishment of the District will not create a conflict with either utility. It is the intent of the District to construct water service infrastructure and then turn over ownership to Lee County Utilities for operating and maintenance. Additionally, the petitioner has provided staff with a wastewater agreement from North Fort Myers Utility stating that the utility is willing to provide wastewater services to the property. Other services and facilities such as water management will be funded and maintained by the district. There are no other Uniform Community Development District services or facilities being provided to the property.

Staff has determined that the community development services and facilities of the district will not be incompatible with the capacity and uses of the existing local and regional services and facilities which deal with community development.

Concerning Factor #6: Staff has reviewed the area in question and has determined that it is amenable to separate special district government.

ADDITIONAL ANALYSIS

As in previous reviews, staff has a concern that future purchasers of property or dwelling units within the proposed UCDD are aware that the property they are purchasing will be subject to additional assessments for public services and facilities, beyond those taxes and assessments levied by local governments. Section 190.048, Florida Statutes, contains a provision that requires that a buyer of an "initial" parcel, or the buyer of an "initial" residential unit within a UCDD be notified that the property or dwelling unit being purchased is subject to special assessments from the district. Second and third buyers of property or dwelling units, however, would not be notified that the property is subject to these special assessments. Staff believes that all future purchasers of property within a UCDD should be made aware that they will be subject to additional district assessments. Staff therefore recommends that the disclosure statement provided in Section 190.048, Florida Statutes apply to all subsequent sales within the UCDD, and not just to the initial sale. Staff recommends the inclusion of the following language in the adopting ordinance of the proposed district:

Any and all agreements for the sale of property within the boundaries of the Oak Creek Community Development District must include the disclosure statement required in Section 190.048, Florida Statutes, for the initial sale of the property. This requirement applies to the initial seller of the property as well as all subsequent sellers, successors and assigns for the life of the Oak Creek Community Development District.

RECOMMENDATION

Planning staff recommends that the Board of County Commissioners adopt and enact the Ordinance establishing the Oak Creek Uniform Community Development District. In accordance with Section 190.005(1)(f), F.S., the Ordinance enacts the following:

1. It establishes the external boundaries of the district which are set forth in ordinance Attachment A;
2. It names the five persons designated to be the initial members of the board of supervisors who shall be:

Paul Leikert
Marc Schneiderman

Joseph Crank
Linda Sloman
Mary Anne Crowell

3. It establishes the name of the district which shall be: The Oak Creek Community Development District.
4. It establishes the inclusion of the disclosure statement of Section 190.048, F.S. to subsequent land purchase agreements within the boundaries of the district.