

MEMORANDUM
FROM THE
OFFICE OF COUNTY ATTORNEY

DATE: November 9, 2010

To: Distribution Below

FROM:


John J. Fredyma
Assistant County Attorney

RE: Establishment of Miromar Lakes South Community Development District (CDD) & Authority to Exercise Special Powers (ORD 10-42) LU-1823.T

On Tuesday, October 26, 2010, the Lee County Board of County Commissioners adopted Lee County Ordinance No. 10-42, establishment of Miromar Lakes South CDD, with authority to exercise special powers for recreational features and security as provided under Sections 190.012(2)(a) and (d), Florida Statutes, respectively. Lee County Ordinance No. 10-42 carries an effective date as follows:

“This ordinance becomes effective upon filing with the Florida Secretary of State.”

Ordinance No. 10-42 was filed in the Office of the Secretary of the Florida Department of State on Friday, October 29, 2010; it is now effective.

I believe you will find everything to be satisfactory, but please call if you have any questions.

JJF/mms
w/ Attachment

cc: Andrea R. Fraser, Acting Deputy County Attorney
Donna Marie Collins, Chief Asst. County Attorney
Dawn E. Perry-Lehnert, Asst. County Attorney
Michael D. Jacob, Asst. County Attorney
Karen B. Hawes, County Manager
James Lavender, Director, Public Works Adm.
Regina Smith, Director, Economic Dev.
Mary Gibbs, Director, Dept. of Community Dev.
Charlie Green, Clerk of Courts
Elizabeth Walker, Public Resources Director
Pam Houck, Dir. of Zoning, Dev. Services Div.

Paul O'Connor, Director, Planning Division
Diana Parker, Chief Hearing Examiner
Robert Stewart, Lee County Building Official, DCD
Rick Roberts, Chief, Code Enforcement Officer
Nettie Richardson, Principal Planner, DCD/Zoning
David Harris, Manager, Budget Services
Georgia Sekulski, Office Mgr., Public Resources
Billie Jacoby, Admin. Support Supervisor, DCD
Audrey Vance, Esq., City Atty, City of Bonita Springs
Gregory L. Urbancic, Esq., Coleman, Yovanovich
& Koester, P.A.

ORDINANCE NO. 10-42

AN ORDINANCE ESTABLISHING THE MIROMAR LAKES SOUTH COMMUNITY DEVELOPMENT DISTRICT; PROVIDING A DISTRICT NAME; SETTING FORTH THE AUTHORITY FOR ADOPTING THE ORDINANCE; AUTHORIZING THE EXERCISE OF SPECIAL POWERS; 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, Miromar Lakes , LLC, has petitioned the Lee County Board of County Commissioners to establish the MIROMAR LAKES SOUTH COMMUNITY DEVELOPMENT DISTRICT; and

WHEREAS, Miromar Lakes, LLC, has also requested the Lee County Board of County Commissioners for authorization to exercise the optional special powers identified in Florida Statutes §190.012(2)(a) and (d) relating to parks and security; 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, as well as security, including but not limited to, guardhouses, fences and gates, electronic intrusion-detection systems, and patrol cars, when authorized by proper governmental agencies; 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 Section 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 (SERC) of this petition on district establishment is adequate.

3. Establishment of the proposed district, whose charter is Sections 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 requested additional powers are not inconsistent and will always be subject to the Lee County Comprehensive Land Use Plan and all related land development regulations and will be activities of the District.

9. 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 Miromar Lakes South Community Development District.

- 3. John Garvalia 10801 Corkscrew Road, Suite 305
Esteros, FL 33928
- 4. Jeff Staner 10801 Corkscrew Road, Suite 305
Esteros, FL 33928
- 5. Michael B. Elgin 10801 Corkscrew Road, Suite 305
Esteros, FL 33928

SECTION SIX: STATUTORY PROVISIONS GOVERNING DISTRICT

The Miromar Lakes South Community Development District will be governed by the provisions of Chapter 190, Florida Statutes.

SECTION SEVEN: NOTICE TO SUBSEQUENT PURCHASERS

Any and all agreements for the sale of property within the boundaries of the Miromar Lakes South Community Development District must include the disclosure statement required in Florida Statutes Section 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 Miromar Lakes South 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 Florida Secretary of State.

Commissioner John Manning made a motion to adopt the foregoing resolution, seconded by Commissioner Frank Mann. The vote was as follows:

John Manning	Aye
Brian Bigelow	Aye
Ray Judah	Aye
Tammara Hall	Aye
Frank Mann	Aye

DULY PASSED AND ADOPTED this 26th day of October, 2010.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Kathleen A. Motz
Deputy Clerk

BY: Tammara Hall
Tammara Hall, Chair



Approved as to form by:

John J. Fredyma
John J. Fredyma
Assistant County Attorney
County Attorney's Office

FLORIDA COUNTY ORDINANCE DATA RETRIEVAL SYSTEM
CODRS CODING FORM

COUNTY: (Lee) COUNTY ORDINANCE # (10-42)
(e.g., 93-001)

PRIMARY KEYFIELD
DESCRIPTOR: (Special Districts)

SECONDARY KEYFIELD
DESCRIPTOR: (Local Government)

OTHER KEYFIELD
DESCRIPTOR: (Government Agencies)

ORDINANCE DESCRIPTION: (Miromar Lakes South CDD)
(25 characters maximum including spaces)

ORDINANCES AMENDED: (List below the ordinances that are amended by
this legislation. If more than two, list the most recent two.)

AMENDMENT #1:(_____); AMENDMENT #2:(_____).

ORDINANCES REPEALED: (List below the ordinances that are repealed
by this legislation.)

REPEAL #1: (N/A); REPEAL #3: (_____);
REPEAL #2: (_____); REPEAL #4: (_____);

(Others repealed: list all that apply): _____

=====
| (FOR OFFICE USE ONLY): COUNTY CODE NUMBER: (__) |
| |
| KEYFIELD 1 CODE: (_____) KEYFIELD 2 CODE: (_____) |
| |
| KEYFIELD 3 CODE: (_____) |
| Rev. 6/29/93 |
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FLORIDA DEPARTMENT *of* STATE

CHARLIE CRIST
Governor

STATE LIBRARY AND ARCHIVES OF FLORIDA

DAWN K. ROBERTS
Interim Secretary of State

November 1, 2010

Honorable Charlie Green
Clerk of Court
Lee County
Post Office Box 2469
Fort Myers, Florida 33902-2469

Attention: Chris Du, Deputy Clerk

Dear Mr. Green:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated October 28, 2010 and certified copies of Lee County Ordinance Nos. 10-41 and 10-42, which were filed in this office on October 29, 2010.

Sincerely,

Liz Cloud
Program Administrator

LC/srd

2010 NOV -4 PM 2:59
RECEIVED
MINUTES OFFICE

DIRECTOR'S OFFICE

R.A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399-0250
850.245.6600 • FAX: 850.245.6735 • TDD: 850.922.4085 • <http://dhis.dos.state.fl.us>

COMMUNITY DEVELOPMENT
850.245.6600 • FAX: 850.245.6643

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850.245.6700 • FAX: 850.488.4894

CAPITOL BRANCH
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RECORDS MANAGEMENT SERVICES
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