

Tracy Trahan

From: William Clague
Sent: Friday, December 27, 2019 9:10 AM
To: Tracy Trahan
Cc: Mitchell Palmer; Alex Nicodemi; Fred Goodrich; John Barnott; Juliet Shepard
Subject: Villages of Avignon CDD Contraction; CAO Matter No. 2019-0622
Attachments: Ord. 20-10 - CAO Comments 12.27.19.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Tracy:

Pursuant to the above Request for Legal Services, you have asked this office to review a staff report, ordinance and supporting documents for the contraction of the boundaries of the Villages of Avignon Community Development District (CDD). I provide the following comments in response:

1. The staff report, ordinance and related documents are thoughtfully drafted and follow established forms that this Office has accepted in the past, such that my comments are limited. Attached are marked pages of the staff report, notice and ordinance reflecting my suggested changes.
2. Please update the notice to provide the correct contact for ADA compliance. (Kaycee Ellis recently retired.)
3. Prior to scheduling the matter for a public hearing, please obtain a written statement from the CDD's counsel confirming that the lands to be removed from the CDD are not subject to special assessments of the CDD, or otherwise pledged to any debts of the CDD. Once you have obtained the written statement from the CDD's counsel, please update the marked paragraph on page 2 of the staff report to reflect it.
4. I have provided an ordinance number which should be used throughout the documents for the contraction of the CDD boundaries.

Subject to the incorporation of my suggested changes, I have no objection from a legal standpoint to the matter being scheduled for consideration by the Board at a forthcoming land use meeting. I express no opinion as to the policy decision to adopt the proposed ordinance.

This concludes my response to the RLS. Please let me know if you have any additional questions or concerns.

William Clague, Chief Assistant County Attorney
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Bradenton, FL 34205
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ORDINANCE NO.

XX-XX

20-10

AN ORDINANCE OF MANATEE COUNTY, FLORIDA, RELATING TO VILLAGES OF AVIGNON COMMUNITY DEVELOPMENT DISTRICT; PROVIDING LEGISLATIVE FINDINGS; SPECIFYING AUTHORITY; SPECIFYING INTENT AND PURPOSE; CONTRACTING THE BOUNDARIES OF THE DISTRICT PURSUANT TO SUBSECTION 190.046(1), FLORIDA STATUTES, BY REMOVING APPROXIMATELY 254 ACRES OF LAND; AMENDING SUBSECTION 2-8-38 OF THE MANATEE COUNTY CODE OF ORDINANCES TO DESCRIBE THE AMENDED BOUNDARIES OF THE DISTRICT AS CONTRACTED; PROVIDING FOR RELIANCE UPON REPRESENTATIONS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Florida Legislature has enacted and amended Chapter 190, Florida Statutes, to provide an alternative method to finance and manage basic services for community development; and

WHEREAS, a community development district serves a governmental and public purpose by financing, providing, and managing certain basic infrastructure systems, facilities, and services as allowed by Florida law, specifically Chapter 190, Florida Statutes, for the use and enjoyment of the general public, and only property owners within the district are assessed through the district for these improvements within the district boundaries; and

WHEREAS, Subsection 190.046(1), Florida Statutes, authorizes the Board of County Commissioners to adopt an ordinance granting a petition for amendment contracting the boundaries of a community development district established by county ordinance; and

WHEREAS, Villages of Avignon Community Development District (District) has been created by law and established pursuant to Manatee County Ordinance No. 06-54, adopted on August 3, 2006, effective as filed with the Secretary of State of Florida on August 17, 2006, codified as Section 2-8-38 of the Manatee County Code of Ordinances; and

WHEREAS, Ordinance No. 06-54 described the boundaries of the District, which included approximately 288.78 acres of land; and

WHEREAS, based on the information provided by the District board of supervisors, the District is active and in good legal standing, and the Board of County Commissioners of Manatee County, Florida (Board), has relied thereon in adopting this Ordinance; and

WHEREAS, the District board of supervisors (Petitioner) has filed a petition with the Board to adopt an ordinance amendment contracting the boundaries of the District pursuant to Subsection 190.046(1), Florida Statutes; and

WHEREAS, the petition designated approximately 254 acres of land described and depicted in Exhibit "A", attached hereto and incorporated herein, to be removed to the District; and

from

WHEREAS, pursuant to Paragraph 190.046(1)(g), Florida Statutes, as amended, the filing of the petition for ordinance amendment by the Petitioner constitutes consent of the landowners within the District other than those landowners whose land is proposed to be deleted from the District; and

WHEREAS, Persson, Cohen & Mooney, P.A agent for Villages of Avignon Community Development District, representing the owners of approximately 254 acres of land proposed to be removed to the District and has consented in writing to the removal of said land to the District; and

WHEREAS, the Board has conducted a public hearing on the petition in accordance with the requirements and procedures of Paragraph 190.046(1)(b) and Section 125.66, Florida Statutes, as amended; and

WHEREAS, the Board has considered the record of the public hearing and the factors set forth in Paragraph 190.005(1)(e), Florida Statutes, as amended, in making its determination to grant or deny the petition for ordinance amendment contracting the boundaries of the District; and

WHEREAS, the Board has relied upon the representations made in the petition and other documents attached thereto as exhibits in adopting this Ordinance; and

WHEREAS, the District established under Ordinance No. 06-54, as amended by this ordinance, as an independent special district and a local unit of special purpose government, shall continue to be governed by Chapter 190, Florida Statutes, and all other applicable federal, state, and local laws within the amended boundaries described and depicted in Exhibit "F", attached hereto and incorporated herein; and

WHEREAS, amendment of the boundaries of the District by contraction will protect, promote, and enhance the public health, safety, and welfare of the County and its inhabitants, including the inhabitants of the District.

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

Section 1. Legislative findings. The Board of County Commissioners of Manatee County, Florida, hereby adopts the "WHEREAS" clauses stated above as legislative findings in support of this Ordinance.

Section 2. Authority. This Ordinance is adopted pursuant to Paragraph 190.046(1)(b) and Section 125.66, Florida Statutes, as amended, and other applicable provisions of law governing county ordinances.

Section 3. Intent and purpose. It is the intent and purpose of this Ordinance to contract the boundaries of the District by removing the areas of land described and depicted in Exhibit "B", consisting of approximately 254 acres, to the geographic boundaries and control of the District.

Section 4. Contraction of boundaries. The boundaries of the District are hereby contracted pursuant to Subsection 190.046(1), Florida Statutes, by removing the areas described and depicted in Exhibit "B", consisting of approximately 254 acres of land, ~~to~~ ^{from} the geographic boundaries and control of the District. The amended boundaries of the District as contracted, which consist of approximately 34.78 acres of land, are described and depicted in Exhibit "C".

Section 5. Amending Subsection 2-8-38 of the Manatee County Code of Ordinances. Subsection 2-8-38 of the Manatee County Code of Ordinances is hereby amended to read as follows (underlined text added, strike-through text deleted):

Sec. 2-8-38. Villages of Avignon Community Development District.

(b) Boundaries. The amended boundaries of the district as contracted are those described in the metes and bounds description attached to Ordinance No. XX-XX Ord. No. 06-54 as Exhibit "C".

Section 6. Reliance upon representations. The contraction of the boundaries of the District is specifically based upon the representations made in the Petition to Amend Manatee County Ordinance No. ~~XX-XX~~ to Modify the External Boundaries of Villages of Avignon Community Development District through Contraction dated June 21, 2019, signed by Angela Silva, chair of the District, and R. David Jackson, Esq., attorney for the District, with Exhibits "A" through "L" collectively attached to said Petition.

Section 7. Codification. The publisher of the County's Code, the Municipal Code Corporation, is directed to incorporate the amendments in Section 5 of this Ordinance into the Code.

Section 8. Severability. If any section, sentence, clause, or other provision of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such section, sentence, clause, or other provision shall be deemed severable, and such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining sections, sentences, clauses, or provisions of this Ordinance.

Section 9. Effective date. This Ordinance shall take effect immediately upon the filing of a certified copy of this Ordinance with the Secretary of State pursuant to Section 125.66, Florida Statutes.

ORDINANCE NO. XX-XX

PASSED AND ADOPTED, with a quorum present and voting, by the Board of County Commissioners of Manatee County, Florida, this XXth day of XXX, 2020.

BOARD OF COUNTY COMMISSIONERS
MANATEE COUNTY, FLORIDA

By: _____
Chairperson →

ATTEST: ANGELINA COLONESSO
CLERK OF THE CIRCUIT COURT AND COMPTROLLER

By: _____
Deputy Clerk

Dates to be published:

DATE
DATE
DATE
DATE

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN, pursuant to Chapter 190, Florida Statutes, that the Manatee County Board of County Commissioners will hold a Public Hearing on June 20, 2017, at 9:00 a.m. (or as soon thereafter as may be heard) in the Commission Chambers, located on the first floor of the Manatee County Administrative Center, 1112 Manatee Avenue West, Bradenton, Florida, to consider and act upon the following request made by the Board of Supervisors of the Villages of Avignon Community Development District (Petitioners) to adopt:

ORDINANCE NO.

XX-XX 20-10

AN ORDINANCE OF MANATEE COUNTY, FLORIDA, RELATING TO VILLAGES OF AVIGNON COMMUNITY DEVELOPMENT DISTRICT; PROVIDING LEGISLATIVE FINDINGS; SPECIFYING AUTHORITY; SPECIFYING INTENT AND PURPOSE; CONTRACTING THE BOUNDARIES OF THE DISTRICT PURSUANT TO SUBSECTION 190.046(1), FLORIDA STATUTES, BY DELETING APPROXIMATELY 254 ACRES OF LAND; AMENDING SUBSECTION 2-8-38 OF THE MANATEE COUNTY CODE OF ORDINANCES TO DESCRIBE THE AMENDED BOUNDARIES OF THE DISTRICT AS CONTRACTED; PROVIDING FOR RELIANCE UPON REPRESENTATIONS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

The existing Villages of Avignon Community Development District sits in the unincorporated area of Manatee County in the general area of 16th Ave E (Canal Rd), 24th Ave E (Oakhurst Rd), and 36th St E (Mendoza Rd) in Palmetto. The approximate location of the District is shown on the Location Map, Exhibit "F".

All interested parties are invited to appear at this hearing and be heard, subject to the proper rules of conduct. Additionally, any comments filed with the Director of the Building & Development Services will be considered by the Board of County Commissioners and entered into the record. Copies of the proposed ordinance, the petition and other information regarding the petition are available for public inspection

from 8:00 a.m. to 5:00 p.m. Monday through Friday at the Manatee County Building & Development Services, 1112 Manatee Avenue West, 4nd Floor, Suite 408, Bradenton, Florida. Interested parties may obtain assistance regarding this matter by calling 941-749-3070 during normal business hours.

In accordance with Section 286.0105, Florida Statutes, if any person decides to appeal any decision made with respect to any matters considered at such meeting or hearing, that person will need a record of the proceedings, and, for such purpose, that person may need to assure that a verbatim record of the proceedings is made, which record would include any testimony or evidence upon which the appeal is to be based.

Americans with Disabilities: The Board of County Commissioners does not discriminate upon the basis of any individual's disability status. This non-discrimination policy involves every aspect of the Board's functions, including one's access to and participation in public hearings. Anyone requiring reasonable accommodation for this meeting as provided for in the ADA should contact Kaycee Ellis at 742-5800; TDD ONLY 742-5802 and wait 60 seconds; or FAX 745-3790.

SAID HEARING MAY BE CONTINUED FROM TIME TO TIME PENDING ADJOURNMENTS.

MANATEE COUNTY BOARD OF COUNTY COMMISSIONERS
Manatee County Building & Development Services
Manatee County, Florida

update

Contraction of Boundaries Village of Avignon Community Development District

Staff Review Report

1. Request

The Board of Supervisors of Village of Avignon Community Development District has submitted the attached petition requesting that the Board of County Commissioners amend the boundaries of the existing District with the proposal to delete approximately 254 acres. The current acreage of the District is approximately of 288.78 acres and with the contraction it will total 34.78 acres.

2. Background

On August 3, 2006, the Board of County Commissioners adopted Manatee County Ordinance No. 06-54 establishing the boundaries of the District. The ordinance described the District's boundaries and named the initial members of the Board of Supervisors.

Chapter 190, Florida Statutes, authorized the establishment and the current boundary amendment of the District and continues to control changes to the District's boundaries.

The existing Villages of Avignon Community Development District sits in the unincorporated area of Manatee County in the general area of 16th Ave E (Canal Rd), 24th Ave E (Oakhurst Rd), and 36th St E (Mendoza Rd) in Palmetto. The approximate location of the District is shown on the attached map.

Manatee County approved a Preliminary Site Plan for Lauris at the Villages of Avignon on April 6, 2006 (PDR-05-66(Z)(P) for 82 Single Family Attached units. A Preliminary Site Plan for Cannon/Caloosa Gardens was approved on December 1, 2005 for 124 Single Family Attached units.

3. Discussion

The process specified under the state statute for establishing, terminating, contracting, or expanding a community development district addresses only factors material to managing and financing the facilities and service delivery functions of the district. The statute treats matters concerning permitting or planning of the development as not material and not relevant to this process. Regardless of the powers and duties of the district, all land development projects within the district must still abide by the county's local government comprehensive plan and local land development regulations.

The Manatee County Comprehensive Plan assigns the RES-6 (Residential – 6 Dwelling Units/Acre) and RES-3 (Residential – 3 Dwelling Units/Acre) Future Land Use Category to all the land in the proposed district.

Trees and cultivated farmland cover most of the land in the proposed contraction portion of the district.

Landowners in the district will pay assessments levied by the district. The district will use the assessments to pay district debts, e.g., any bonds that financed infrastructure construction, and district expenses, e.g., operation and maintenance of its facilities and services.

*See
amended
comments*

Pursuant to Section 190.046(1), Florida Statutes, the District Board of Supervisors submitted the petition to contract the District boundaries. Section 190.046(1)(e), Florida Statutes, provides that the filing of a petition for contraction by the District Board of Supervisors shall constitute consent of the landowners within the existing District. The petition further contains written consents of the owners of the contracted parcel as required by Section 190.046(1)(e).

The District Chairperson and Legal Counsel affirms and certifies that the facts contained in the petition are accurate.

Any action on the petition does not set a precedent for future requests in the community development district. All petitions submitted to Manatee County dealing with community development districts are reviewed on a case-by-case basis in accordance with the criteria specified in Section 190.005(1)(e), Florida Statutes.

4. Review Factors

Section 190.046(1)(b), Florida Statutes, requires the Board of County Commissioners to hold a public hearing on the petition for amendment of the ordinance to contract the District boundaries. This statute further requires the Board of County Commissioners to consider the record of the public hearing and the factors set forth in Section 190.005(1)(e), Florida Statutes, in making its determination to grant or deny the petition for ordinance amendment. A description of the factors listed in Section 190.005(1)(e), Florida Statutes, and an analysis of each factor are listed below.

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

Analysis

The petition states true and correct references to Chapter 190, Florida Statutes.

The petition states the true and correct date of approval, approval authority, ordinance number, and size of the existing District.

The contents of the petition correspond correctly to the subject requirements of Sections 190.046(1)(a) and 190.005(1)(a), Florida Statutes.