

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

DATE CRITICAL
Blue Sheet No. 20030103

1. REQUESTED MOTION:

ACTION REQUESTED: Direct an ordinance creating The Habitat Community Development District to public hearing on April 8, 2003 at 5:00 p.m.

WHY ACTION IS NECESSARY: Habitat Lakes, LLC has petitioned the Board to establish The Habitat Community Development District.

WHAT ACTION ACCOMPLISHES: Allows response to Habitat Lakes, LLC's petition by providing a forum to evaluate the appropriateness of the request.

2. DEPARTMENTAL CATEGORY: 04
COMMISSION DISTRICT: #3 and #5 **C12A**

3. MEETING DATE:
02-25-2003

4. AGENDA:

CONSENT

ADMINISTRATIVE

APPEALS

PUBLIC

WALK ON

TIME REQUIRED:
5 Minutes

5. REQUIREMENT/PURPOSE:
(Specify)

STATUTE Chapter 190, F.S.

ORDINANCE

ADMIN. CODE

OTHER

6. REQUESTOR OF INFORMATION:

A. COMMISSIONER

B. DEPARTMENT County Atty's Office

C. DIVISION Land Use

BY: *John J. Fredyma*
John J. Fredyma, Asst. Cty Atty

7. BACKGROUND: Habitat Lakes, 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)

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	<i>John J. Fredyma</i> 2-12-03	OA <i>RK</i> 2/12	OM <i>RK</i> 2/12/03	RISK <i>RK</i> 02/12/03	GC <i>RK</i> 2/12/03	<i>John J. Fredyma</i> 2-13-03

10. COMMISSION ACTION:

_____ **APPROVED**

_____ **DENIED**

_____ **DEFERRED**

_____ **OTHER**

CO. ATTY
2/12/03 3PM

RECEIVED BY
CO. ATTY
2-12-03
3:30
COUNTY ADMIN.
FORWARDED TO: *PL*
2-13-03
4:40 PM

The proposed Habitat Community Development District is located on approximately 961 contiguous acres, more or less, of land located wholly in unincorporated Lee County. The land area is bounded on the north by Corkscrew Road; on the south by undeveloped vacant land; on the east by a rock mine and land of Lee County; and on the west by undeveloped vacant land (next to Wildcat Run). The property is located in Sections 20, 29 and 32, Township 46 South, Range 26 East. The Habitat 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 Habitat 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 Habitat 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. Antonio Gonzalez, P.E., PLS
 - b. Michael Montero, Esq.
 - c. Reynaldo Mayor
 - d. Carlos Montero
 - e. Felix Pardo
3. Names the district: The Habitat Community Development District

The proposed ordinance is scheduled for consideration by the Executive Regulatory Oversight Committee on March 12, 2003.

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

Attachment:

- (1) Proposed Ordinance establishing The Habitat Community Development District

LEE COUNTY ORDINANCE NO. 03-

AN ORDINANCE ESTABLISHING THE HABITAT 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, Habitat Lakes, LLC, has petitioned the Lee County Board of County Commissioners to establish the HABITAT 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 Lee County 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 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.

4. 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.

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 §190.012(2), Florida Statutes.

10. Upon the effective date of this Ordinance, the proposed Habitat 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 AND LEGAL DESCRIPTION

The community development district herein established will be known as the Habitat Community Development District. A copy of the legal description of the community development district is attached as Exhibit "A" and incorporated herein by reference.

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 Habitat 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. Antonio Gonzalez, P.E., PLS 782 NW 42nd Avenue #630
Miami, FL 33126
2. Carlos Montero 1717 North Bayshore Drive, Apt. #1457
Miami, FL 33132
3. Michael Montero, Esq. 1885 SW 18th Street
Miami, FL 33145
4. Felix Pardo c/o Felix Pardo and Associates, Inc.
5545 SW 8th Street #205
Miami, FL 33126
5. Reynaldo Mayor 780 NW 42nd Avenue #616
Miami, FL 33126

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

Upon the effective date of this Ordinance, the proposed Habitat 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 Habitat 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 Habitat Community Development District will also be subject to the following additional conditions:

1. Any and all agreements for the sale of property within the boundaries of the Habitat 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 Habitat 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.

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

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

DULY PASSED AND ADOPTED THIS 8th DAY OF APRIL, 2003.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Chairman

APPROVED AS TO FORM:

By: _____
Office of County Attorney