



Office of  
**INDIAN RIVER COUNTY  
ATTORNEY**

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**MEMORANDUM**

**TO:** Board of County Commissioners  
**FROM:** Dylan Reingold, County Attorney  
**DATE:** March 8, 2022  
**SUBJECT:** Community Development Districts

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**BACKGROUND.**

Per section 190.003, Florida Statutes, a community development district is defined as a local unit of special-purpose government. The main purpose of a community development district is to plan, finance, construct, operate and maintain infrastructure and services in a development. The financing for the infrastructure and services is through the issuance of tax-exempt bonds, with the principal and interest then paid back over time by the residents through assessments on the annual property tax bill. Please note that the community development district assessment is in addition to the other taxes and assessments on the annual property tax bill and homeowner's association fees that are not found on the annual property tax bill. The community development district is a financing option for developers that allows them to shift the upfront development costs of a project onto the future residents of a development. If these assessments are not paid, homeowners can lose their homes through the same process established under Florida statutes for not paying property taxes.

Per section 190.005, Florida Statutes, the Indian River County Board of County Commissioners ("Board") has the authority to establish a community development district of less than 2,500 acres in size. Per the statute, in making a determination as to whether to grant or deny the Petition, the Board considers:

1. Whether all statements contained within the Petition have been found to be true and correct.
2. Whether the establishment of the proposed district is inconsistent with any applicable element or portion of the state comprehensive plan or of the Indian River County 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 proposed district is the best alternative available for delivering community development services and facilities to the area that will be served by the proposed district.
5. Whether the community development services and facilities of the proposed 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 proposed district is amenable to separate special-district government.

On December 7, 2021, the Board conducted a public hearing concerning the Petition to Establish Lakeside at Indian River for a proposed community development district for property located on approximately 208.02 acres of land, located south of Oslo Road, east of Interstate 95, west of 27<sup>th</sup> Avenue SW, north of 25<sup>th</sup> Street SW and bisected by 43<sup>rd</sup> Avenue SW. The applicant withdrew the request prior to the Board taking action on the matter.

After the withdrawal, a discussion concerning a policy on community development districts continued among the Board members. At the Board meeting, the idea was presented about an ad-hoc committee of interested developers and community groups establishing parameters for community development districts. And County staff agreed to bring back a presentation in March of 2022.

On February 10, 2022, County staff conducted a meeting in the large conference room in Building B concerning community development districts. Approximately 25 people from the development community, including developers, builders, engineers, consultants and attorneys attended. A good discussion ensued that lasted almost two hours. At the meeting, County staff reiterated the position stated at the December 7, 2021 Board hearing, that County staff could support community development districts in situations where a specific project is going to provide an important additional benefit (e.g. significant additional public amenities, special conservation component, the need to overcome a substantial infrastructure obstacle, above and beyond the requirements to development a property, and traditional neighborhood developments). Additionally, County staff stated that they believed that community development districts were more appropriate in larger scale projects, such as 500 or more acres.

In the February 10, 2022 meeting, some of those from the development community in attendance argued that community development districts should also be considered for smaller projects and even those without the additional benefit as community development districts can help fund better developments with improved landscaping or better community amenities. Additionally, it was argued that community development districts could help fund the costs of expensive development requirements. County staff is still not supportive of recommending community development districts in such scenarios.

County staff does have reservations concerning community development districts. Development in Indian River County is at the highest levels since 2006, which is a cause of concern. County staff has questions as to whether or not it is appropriate to approve a mechanism that will facilitate more development at this time. Indian River County has been able to grow through the years with the conventional tools of growth management.

Staff also has concerns that community development districts can incur fixed costs associated with establishing a new unit of government; that new home buyers may be surprised by the community development district assessments on their tax bill; and possible exposure, whether legal or political, to the County to assume developer commitments in the event the developer is unable to complete or maintain the project. Thus, in the event that community development districts are established, County staff would support the mandating additional disclosure requirements, as has been done in other jurisdictions.

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Now that County staff has conducted a workshop concerning community development districts, County staff is seeking direction from the Board as to whether it would like County staff to 1) conduct one or more additional workshops, 2) begin drafting a policy which would apply to future community development district petitions or 3) cease further activity on the matter.

**FUNDING.**

There is no funding associated with this item.

**RECOMMENDATION.**

The County Attorney's Office recommends the Indian River County Board of County Commissioners provide guidance on how to proceed with respect to Community Development Districts.