
**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Apple Valley - Application for Exception Review: Administrative Code 22:10

DEPARTMENT: Fiscal Services

DIVISION: MSBU

AUTHORIZED BY: Lisa Spriggs

CONTACT: Kathy Moore

EXT: 7179

MOTION/RECOMMENDATION:

Requesting Board response to the Apple Valley Application for Exception Review by confirming response to the two actions requested:

1. The Board (grants/denies) the request to revise the language in the Administrative Code Section 22.10 to exclude from the fence to wall restriction certain subdivisions (such as Apple Valley) that were developed prior to current Land Development Code standards.
2. The Board (grants/denies) the requested waiver of the fence to wall restrictions for the project proposed by Apple Valley.

District 3 Dick Van Der Weide

Kathy Moore

BACKGROUND:

Representative of the Apple Valley community are interested in pursuing the establishment of an MSBU purposed at replacing the existing subdivision perimeter fencing with a more permanent structure, such as a concrete block or brick wall. The provisions in the Seminole County Administrative Code [Section 22:10] are very specific as to the criteria that must be met prior to accepting wall reconstruction applications. Unfortunately, the proposed project and site conditions at Apple Valley are not consistent with the Administrative Code criteria. Resultantly, the MSBU Program is not authorized to accept the community application for establishing an MSBU for the project they are proposing.

The Seminole County Administrative Code Section 22.10: B provides opportunity for potential MSBU applicants to request Board consideration for exception consideration on a case-by-case basis. Consistent with these provisions, representatives of the Apple Valley subdivision are requesting that the Board grant a waiver of the restrictions [noted in 22.10 G and N] that prohibit the use of non-ad valorem funding for fence to wall upgrade projects. Additionally, the Applicant has submitted a petition document, representing 62% (61 of 98) of the properties in Apple Valley [Phases 1 - 3], requesting the Board amend the existing Administrative Code provisions so that subdivisions developed prior to the current Land Development Code would be allowed access to non-ad valorem funding for fence to wall upgrades.

The MSBU Program and the Applicant are requesting direction from the Board regarding waiver of the provisions that exclude fence to wall upgrades, and per the Applicant's request to revise the Administrative Code so that the criteria does not apply to subdivisions developed under earlier Land Development Code provisions. The supporting comments from the community, photographs taken at the site, Administrative Code 22.10, and the MSBU Program

recommendations for Board response are provided with this agenda item.

STAFF RECOMMENDATION:

Staff recommends the Board respond to the Apple Valley Application for Exception Review by confirming response to the two actions requested:

1. The Board (grants/denies) the request to revise the language in the Administrative Code Section 22.10 to exclude from the fence to wall restriction certain subdivisions (such as Apple Valley) that were developed prior to current development code standards.
2. The Board (grants/denies) the requested waiver of the fence to wall restrictions for the project proposed by Apple Valley.

ATTACHMENTS:

1. MSBU Program Summary
2. Application for Exception Review
3. Administrative Code 22.10
4. Site Photo 1
5. Site Photo 2
6. Site Photo 3
7. Site Photo 4
8. Site Photo 5
9. Site Photo 6
10. Site Photo 7
11. Site Photo 8

Additionally Reviewed By:

■ County Attorney Review (Ann Colby)

MSBU PROGRAM

Exception Review Summary:

The Board decision to include wall reconstruction as an authorized project type was based on the needs of unincorporated communities functioning without mandatory homeowner associations to secure the necessary resources for replacing their community walls when necessitated. The purpose of offering consideration for wall reconstruction was to offer these communities, as a last recourse, a viable means for replacing a deteriorating community wall. The criteria established for meeting this need was based on the requirement to ensure that the use of non-ad valorem funding (for such projects) was consistent with the Florida Statutes. The established criteria places emphasis on (a) reconstruction (not new construction), (b) essential improvements (as required by development code/order; not optional as is fence to wall upgrade during replacement), and (c) utilizing non-ad valorem assessment funding as the last recourse available to the community in their effort to replace a deteriorated structure (cost to replace greater than the community could bear without financing assistance; no formal mechanism for the community to use for levying a private assessment). The fence to wall upgrades were specifically excluded based on the upgrade being considered as optional (rather than essential), and due to the potential mandatory financial impact to property owners relative to constructing a more costly barrier than installed at the time of purchasing the property.

The site conditions at Apple Valley consist of a combination of multiple brick entrance structures and multiple segments of wooden fencing that parallels with Douglas Avenue. The multiple entrance structures serve to benefit the community as a whole as they assist with identification and designating site access. The fencing is installed on private property on the east side of multiple parcels. The fencing is not installed on the rear property lines as more typically noted in other communities. Property access for the parcels with fencing varies. Some of the parcels have side access; others front access. All the properties are addressed per the interior roads; not Douglas Avenue. The variation in access impacts the layout of the fencing and creates multiple segments of fencing with driveways between the segments. From general appearance and initial design, the fencing serves to benefit specific properties along Douglas; the property on which the fence is installed. However, upgrading (optional; not essential) from fence to wall and constructing a standard wall structure for the full length along Douglas Avenue would yield an appearance of a structure that was designed to provide a community-designating barrier from which the full community received benefit.

Replacement of the current fencing with new fencing is consistent with the requirements of the current Land Development Code. Based on the current Land Development Code, Apple Valley would not be required to replace the fence with a wall structure; a fence would be sufficient.

MSBU Program Recommendation:

The MSBU Program recommends that the Board deny the exception request based on the merits for having this exclusion in the Administrative Code and the consideration that a fence is sufficient to meet the requirements of the current Land Development Code. The MSBU Program recommends that the Board maintains the current language as stated in the Administrative Code and continues to give consideration for projects (failing to meet the criteria) on a case-by-case basis.



Application for Exception Review

Applicant Name: APPLE VALLEY / BETTY MOODY, PRES. Email: DJURSH@AOL.COM

Mailing Address: 113 CANDLEWICK ROAD - ALT. SPRGS, FL. 32714 Phone: 407.862.4497

Applicant Signature: Elizabeth Moody Date: DECEMBER 7, 2009

Applicant Type: [] Property Owner [X] Homeowner Association [] Management Company [] Other

LOCATION & COMMISSION DISTRICT

Subdivision: Apple Valley Parcel ID/Reference: Several entrances into Apple Valley; fence parallel with Douglas Ave

[] District 1: Bob Dallari [] District 2: Michael McLean [X] District 3: Dick Van Der Weide [] District 4: Brenda Carey

APPLICABLE ADMINISTRATIVE CODE REQUIREMENT

Administrative Code Section 22.10 requires wall reconstruction project meet specific criteria to be accepted for consideration. A community wall is defined as a permanent upright structure constructed of concrete block, brick, or precast concrete used to prevent entrance, provide sound barrier, provide light abatement, and/or to mark a subdivision or community boundary. Replacement of fencing structures, defined as a barrier enclosing or bordering property usually made of posts and wire or wood used to define subdivision/community boundaries are not eligible for replacement via non-ad valorem assessment. The potential use of the MSBU funding format to provide a reconstruction upgrade from a community fence structure to a community wall structure, or from no prior community structure to a permitted community wall is excluded from consideration. In addition to the basic eligibility standards for all MSBU project types, the project specific criterion for wall reconstruction that must be met at time of application is as follows:

- Existence of a damaged, destroyed, and/or deteriorating community wall (brick, block, precast concrete)
• Community has no means to levy/enforce a private assessment for wall replacement
• Owner has signed Letter(s) of Intent for temporary easement/leasehold to be granted to the County from all owners of properties upon which the proposed wall will be located. NO WALL PROJECT MAY PROCEED WITHOUT THE COUNTY RECEIVING TRANSFER OF OWNERSHIP/EASEMENT DOCUMENTS FROM 100% OF THE OWNERS OF PROPERTY UPON WHICH THE PROPOSED WALL WILL BE LOCATED.
• Construction material requested is brick, block/stucco, or precast concrete
• Applicant: (1) will provide sealed design/engineering plans suitable for public bid/procurement, (2) will substantiate ability to fund preliminary engineering, or (3) requests precast concrete construction that does not require design/engineering.

REASON FOR EXCEPTION REVIEW

The current subdivision perimeter barrier for Apple Valley that is proposed for replacement via the establishment of an MSBU (non-ad valorem assessment funding) consists of fencing materials. Therefore, per Administrative Code Section 22.10: N (1) (d) this proposed project (fence material replacement with upgrade to constructed wall) is excluded from consideration for non-ad valorem assessment funding. Approval from the Board of County Commissioners is required prior to accepting application for proceeding with the project proposed by liaisons of the Apple Valley community.

BACKGROUND & COMMUNITY INVOLVEMENT

Type of existing structure: Wood Block/Stucco Brick Other: _____
Type of wall requested: Brick Block / Stucco Pre-Cast Concrete/Panel

Does the community have a homeowner association? Yes No
If yes, is the nature of the homeowner association? Voluntary Mandatory
Does the association have the authority to levy assessments for improvements proposed? Yes No

What alternatives for securing private funding for this project have been tried/considered prior to seeking MSBU Program assistance? EVERY ATTEMPT HAS BEEN MADE WITHOUT SUCCESS

What percentage of the property owners would likely provide written confirmation of support for participating in an MSBU purposed at funding the proposed project if exception override were granted?
 <20% 20-54% 55 - 64% 65-80% >80%

The land on which the existing structure is built is owned by: Individually owner Homeowner Association

If under individual ownership:

- 1) Are 100% of the owners willing to grant short term leasehold/easement to the County? Yes No
- 2) Are 100% of the owners willing to grant long term leasehold/easement to a community association purposed at providing wall maintenance after the wall is constructed? Yes No

COMMUNITY BASED REQUEST FOR EXCEPTION CONSIDERATION
(Check attachment box and provide attachment if additional space is needed.)

The applicant for this Exception Consideration is the **Apple Valley Home Owners Association** located within unincorporated Seminole County, whose Commissioner in District 3 is Dick Van Der Weide. We are respectfully asking the Board of County Commissions to make an exception to Administrative Code Section 22.10. This would allow us to be eligible under the MSBU project for non-ad valorem assessment to fund a project which entails replacement of a damaged, and deteriorating stockade type fence to a more permanent wall structure made of concrete block finished with stucco. Currently the program only allows "like kind" replacement.

We are an active "voluntary" homeowners association that has worked hard continuously for the past 39 years, for the betterment of our community and the surrounding area. Even though the nature of our association is "voluntary" our active participation is nearly 90%.

While we are active and strong, we do not have the capacity to fund such a project or enforce a private assessment for this replacement. We are capable of securing temporary easement/leasehold to be granted to the County from 100% of the property owners where the wall will be placed. Construction materials will be as required, concrete block/stucco.

Upon approval of this inclusion into this Code, we will have the capacity to provide sealed design/engineering plans suitable for public bid/procurement, and we will be able to fund preliminary engineering.

Unfortunately for us, when Apple Valley was permitted, walls were not mandatory, thus we are left without any provision for noise abatement from either Interstate 4 or Douglas Avenue, or separation from all the commercial development along the latter road. For all practical purposes, we have lost the ability to improve the character of our neighborhood; we are helpless in trying to provide some continuity and consistency to the entire community. We look with envy upon the aesthetics that walls provide along Wymore road.

Finally, we respectfully request that you provide us with the ability to tear down this dilapidated fence we have tried to restore all these years, and replace it with a more permanent structure allowed within approved MSBU project types. This project would work in everyone's favor; our neighborhood, the surrounding area, the community at large, surveyor's, design people, contractors and others who need work. The time is right for us to get this done.

Thanking you in advance for your consideration in this matter.

Residents of Apple Valley Homeowner's Association

Original available

Petition to reopen Seminole County Resolution 2009-R-26

Petition summary and background
 On February 10, 2009 the Seminole County Board of Commissioners passed Resolution 2009-R-26 which described the MBSU Program's Wall Reconstruction projects. The resolution was passed to include only "like kind" replacements. The resolution specifically prohibits upgrades in wall types, for example, from wood to masonry or brick.

Action petitioned for
 We, the undersigned, are concerned citizens who urge the Board of Commissioners to reopen and amend the resolution to allow upgrades in wall types for subdivisions developed before the current code standards were implemented.

Printed Name	Signature	Address	Comment	Date
PAUL URSHMAN		113 CANDLEWICK RD. ALTA MOUNTAIN SPGS FL 32714	PLEASE MODIFY THIS RESOLUTION SO THAT WE CAN UPGRADE OUR COMMUNITY. THANK YOU!!	11/21/09
PAT RADZAK		112 CANDLEWICK RD ALTA SPGS, FL 32714		11/21/09
DOTI URSHMAN		113 CANDLEWICK RD ALT SPGS 32714	Wood degrades neighborhood	11-21-09
KEN ZEBROWSKI		119 CANDLEWICK RD ALT SPGS, FL 32714		11-21-09
MICHAEL SCHWARZ		133 CANDLEWICK RD. ALT SPGS FL 32714		11/21/09
MEGAN GREER		122 CANDLEWICK RD. ALT SPGS FL 32714		11/21/09
JAYD ORSONA		104 CANDLEWICK ROAD ALTA MOUNTAIN SPGS		11/21/09
LEONARD WILIS		104 CANDLEWICK RD ALTA MOUNTAIN SPGS		11/21/09
DANIEL HULL		101 CANDLEWICK RD ALTA MOUNTAIN SPGS		11/21/09
MEGAN CUMMINGS		101 CANDLEWICK RD ALTA MOUNTAIN SPGS, FL		11/21/09
WINIFRED WOLFE		106 CANDLEWICK RD ALT SPGS FL 32714		11/21/09
JUDITH W. TENENBERG		106 CANDLEWICK RD ALT SPGS, FL 32714		11/21/09
CHARLE HAYWARD		102 CANDLEWICK RD ALTA MOUNTAIN, FL 32714		12/6/09

Printed Name	Signature	Address	Comment	Date
Louis LANGRISH	James Jones	120 Candlewick Rd Altamonte SpR, FL 32714		21 Nov 09
Dagmar H. LANGRISH	Dagmar M. Jones	120 Candlewick Rd Altamonte SpR, FL 32714		21 Nov 09
DAVID A. MARSH	David Marsh	109 CANDLEWICK RD ALTAMONTE SPR FL 32714		11-21-09
DAVID A. MARSH	David Marsh	110 CANDLEWICK RD ALT. SPRS. 32714		11-21-09
HELEN SIVERBACH	Helen Siverbach	117 CANDLEWICK RD ALT SPRS FL 32714		11-22-09
Tom Rapp	Tom Rapp	122 CANDLEWICK RD ALT SPRS FL 32714		11-22-09
James Greas	James Greas	124 CANDLEWICK RD		11/22/09
Leon Hampton	Leon Hampton	124 CANDLEWICK RD		11/02/09
Yvonne Hampton	Yvonne Hampton	124 CANDLEWICK RD		11/23/09
Yvonne Hampton	Yvonne Hampton	124 CANDLEWICK RD		11/23/09
James L. Covington	James L. Covington	118 CANDLEWICK RD		12/3/09
Cyndette S. Covington	Cyndette S. Covington	118 CANDLEWICK RD		12/3/09

Petition to reopen Seminole County Resolution 2009-R-26

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Action petitioned for	We, the undersigned, are concerned citizens who urge the Board of Commissioners to reopen and amend the resolution to allow upgrades in wall types for subdivisions developed before the current code standards were implemented.		

Printed Name	Signature	Address	Comment	Date
WILSON MWA MILLER WEA	<i>[Signature]</i>	112 Lamp Lighter Rd, #2714		11/22/09
Debbie Wreford	<i>[Signature]</i>	102 Lamp Lighter Rd 32714		12/1/09
Theresa Lusk	ANN LUSK	105 Lamp Lighter Rd 32714		12/1/09
Dequy Bovee	Dequy Bovee	104 Lamp Lighter Rd.		12/1/09
Darryl Lynn	Harvey Lynn	118 Lamp Lighter Rd		12/01/09
JOHN A. J	<i>[Signature]</i>	120 Lamp Lighter Rd		12/01/09
Daniel Jans	<i>[Signature]</i>	124 Lamp Lighter Rd		12/01/09
Rick BARRICK	<i>[Signature]</i>	119 Lamp Lighter Rd		12/01/09
Bill STARR	Bill Starr	117 Lamp Lighter Rd	PLEASE APPROVE!	12/01/09
Margaret Halpern	<i>[Signature]</i>	111 Lamp Lighter Rd		12/01/09
Robert Bollet	Robert Bollet	100 Lamp Lighter Rd.	Please approve!	12/1/09
JANISLE M. D.	<i>[Signature]</i>	109 Lamp Lighter Rd	11/11	12/2/09

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Action petitioned for
 We, the undersigned, are concerned citizens who urge the Board of Commissioners to reopen and amend the resolution to allow upgrades in wall types for subdivisions developed before the current code standards were implemented.

Printed Name	Signature	Address	Comment	Date
Heather Ginter	[Signature]	103 Bayberry Rd	Wood Fence looked	11/21
Raymond Paul	[Signature]	107 Bayberry Rd		11/21
Nancy McElle	[Signature]	106 Bayberry Rd		11/21
Robert A. Miller	[Signature]	109 Bayberry Rd		11/21
Justin Glidewell	[Signature]	110 Bayberry Rd.		11/21
L. Parsons	[Signature]	113 BARBER RD	"ITS ACTS"	11/21/09
Barbara Parsons	[Signature]	115 Bayberry Rd.		11/21/09
Kpt Mathison	[Signature]	117 Bayberry Rd.		11/21/09
Amber Lommen	[Signature]	105 Bayberry Rd.		11/22/09
James H Carter	[Signature]	111 Bayberry Rd.		11/23/09
[Signature]	[Signature]	118 Bayberry Rd		11/23/09
Denise Brown	[Signature]	121 Bayberry Rd		11/24/09

Petition to reopen Seminole County Resolution 2009-R-26

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Action petitioned for	We, the undersigned, are concerned citizens who urge the Board of Commissioners to reopen and amend the resolution to allow upgrades in wall types for subdivisions developed before the current code standards were implemented.

Printed Name	Signature	Address	Comment	Date
LOUIS STASSAL	<i>Louis Stassal</i>	116 W Hillcrest St		11/30/09
Rich Ladley	<i>Rich Ladley</i>	118 W Hillcrest St		11/30/09
Ymille Laddova	<i>Ymille Laddova</i>	123 W. Hillcrest		11/30/09
STUVE STEINER	<i>Stu Stes</i>	115 W. HILLCREST		11/30/09
MARIAUDE WEUS	<i>Mweus</i>	115 W. HILLCREST		11/30/09
NANCY NOLT	<i>Nancy Nolt</i>	111 W. Hillcrest Street		12/01/09
Danielle Desrosiers	<i>Danielle Desrosiers</i>	112 W Hillcrest St		12/11/09
Rodney Mark	<i>Rodney Mark</i>	110 W Hillcrest St		12/11/09
Jean Tuttle	<i>Jean Tuttle</i>	108 W. Hillcrest		12/11/09
ROBERT JENKINS	<i>Robert Jenkins</i>	109 W. Hillcrest		12/11/09
Juan Valenzuela	<i>Juan Valenzuela</i>	104 W Hillcrest		12/11/09
Tammy Jenkins	<i>Tammy Jenkins</i>	103 W Hillcrest		12/11/09

Printed Name	Signature	Address	Comment	Date
Carlos & Ana Alicia LEONARD	Ana Rodriguez	10015 Hillcrest St Alhambra Springs		2/1/09
	Oliver Powell	117 W. Hillcrest St.		12/6/09

THE FOLLOWING RESOLUTION WAS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA, AT THEIR REGULARLY SCHEDULED MEETING ON THE 27 DAY OF October, 2009.

WHEREAS, Seminole County Ordinance No. 89-28 created the Seminole County Administrative Code; and

WHEREAS, Seminole County Resolution Numbers 89-R-438 and 05-R-151 adopted the Seminole County Administrative Code; and

WHEREAS, the Seminole County Administrative Code needs to be amended from time to time to reflect changes in the administration of County government; and

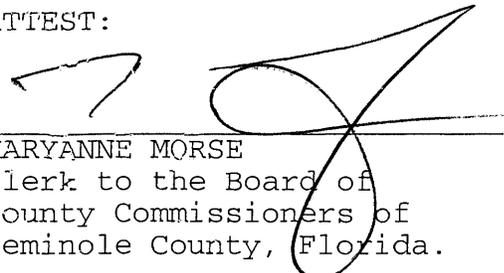
WHEREAS, the Board of County Commissioners desires to amend sections of the Seminole County Administrative Code to clarify the criteria for community based requests for wall reconstruction projects under the Municipal Services Benefit Unit Program,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA THAT,

The Seminole County Administrative Code is hereby amended by revisions, additions, and deletions to Section 22.10, "Municipal Services Benefit Unit Program", as more particularly described in the attachment.

ADOPTED this 27 day of October, 2009.

ATTEST:



MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida.
Attachment:
Section 22.10

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA


By: _____
BOB DALLARI, Chairman

Date: October 29, 2009

CERTIFIED COPY
MARYANNE MORSE
CLERK OF CIRCUIT COURT
SEMINOLE COUNTY, FLORIDA

DEPUTY CLERK

SECTION 22. FISCAL SERVICES**22.10 MUNICIPAL SERVICES BENEFIT UNIT PROGRAM****A. PURPOSE.**

(1) Non-Ad valorem assessment is an alternative funding source for improvement projects and/or services that meet the guidelines for essential public purposes as are defined by and consistent with Chapter 125, Florida Statutes. Through the establishment of non-ad valorem assessment districts – individually referred to as a Municipal Services Benefit Unit [MSBU] – property owners benefit from essential improvements to neighborhood common areas, public infrastructure and facilities. The purpose of the Municipal Service Benefit Unit [MSBU] Program of Seminole County Government is to provide a centralized entity through which non-ad valorem assessments are managed and coordinated for unincorporated Seminole County. The MSBU Program shall serve as the liaison for the County for community initiated requests for establishing MSBUs.

(2) The MSBU Program will be an independent program coordinated within and subject to the directorship of the Department of Fiscal Services. Operational guidelines and procedures consistent with the Administrative Code will be developed and maintained within the Department of Fiscal Services.

(3) The MSBU Program will provide support services to the Solid Waste Division for the Collection and Disposal Service Contract established with the franchised haulers servicing the properties located in unincorporated areas. Support services provided by the MSBU Program will include the activities associated with the financial aspects of calculating, billing and collecting the non-ad valorem assessments required to fund the collection and disposal improvements. The MSBU Program will provide customer service support and database maintenance of customer records such as service level options, billing units, assessment rates, and optional billing formats. The Solid Waste Division of Environmental Services will be responsible for the administration and management of the Collection and Disposal Service Contract and customer service activities associated with the contracted haulers, collection and disposal, service problems, days of service and recycling.

B. ADMINISTRATIVE CODE REVISION. The revised MSBU Program Administrative Code document approved by the Board will supersede and replace all other Administrative Code provisions for MSBU Program Guidelines and Procedures. The Board of County Commissioners may address exceptions to any of the administrative provisions on a case-by-case basis. Exception review requests received from potential applicants will be coordinated through the MSBU Program and may be presented by the MSBU Program to the Board of County Commissioners following County Manager confirmation for granting exception consideration. Exception requests shall include justification for allowing exception processing and staff recommendations for response.

C. STATUTORY AUTHORITY. Chapter 125.01(q)1 of the Florida Statutes authorizes the Board of County Commissioners to provide for the establishment,

merging or abolishment of municipal service benefit units (MSBUs) for any part or all of the unincorporated area of the county. It also provides for a county MSBU to include all or part of a municipality subject to consent by ordinance of the governing body of the municipality. The law permits such MSBUs to be created for the purpose of providing and maintaining improvements which specifically benefit property in a particular area. The improvements must provide a public purpose. Chapter 197.3632 of the Florida Statutes provides for the levy, collection and enforcement of non-ad valorem assessments through the uniform method.

D. ESTABLISHING AN MSBU AND GOVERNING AUTHORITY. The Municipal Service Benefit Units authorized by the Board will be established by Ordinance. Governing expectations, regulations and range of authority for managing the improvement project and the MSBU will be included in the respective governing ordinance. The process of establishing an MSBU may be initiated by Board action absent a community based request or by community based request.

(1) When the MSBU establishment process is initiated by Board action, the following steps, consistent with statutory requirements, will be involved in the process:

~~(a) Resolution defining improvement to be pursued and declaration of intent to assess & date of associated public hearing.~~ Resolution of Intent to use the uniform method for levy, collection and enforcement of non-ad valorem assessments (if so required by nature of project or proposed improvement) – By definition, the uniform method includes the imposition of non-ad valorem assessment, assessment billing and collecting by Tax Collector via property tax statement, with standard statutory enforcement criteria.

~~(b) Publication of Resolution of Necessity & Notification of Public Hearing to establish Ordinance, Ordinance Adoption – establishment of MSBU and governing parameters; adoption of Ordinance to be giving consideration at a public hearing.~~

~~(c) Public Hearing – Ordinance Establishing MSBU & Preliminary Assessment Roll, and Preliminary Assessment Roll Adoption – identification of assessed property and assessment units, and approval of preliminary rate of assessment to be given consideration at a public hearing.~~

~~(d) Certification of Assessment Roll.~~

(2) When the MSBU establishment process is initiated by community based request, the following steps, as further defined in Section N, will be involved in the process:

(a) Application, – community request to establish MSBU

(b) Petition, – indicator of community support to establish MSBU

(c) Resolution defining improvement to be pursued and declaration of intent to assess & date of associated public hearing, of Intent to use the uniform method

for levy, collection and enforcement of non-ad valorem assessments (if so required by nature of project or proposed improvement)

~~(d) Public Hearing — Ordinance Establishing MSBU & Preliminary Assessment Roll, Ordinance Adoption – establishment of MSBU and governing parameters; adoption of Ordinance to be given consideration at a public hearing~~

~~(e) Final Resolution (if so required by nature of project), and Preliminary Assessment of Roll Adoption – identification of assessed property and assessment units, and approval of preliminary rate of assessment to be given consideration at a public hearing~~

~~(f) — Certification of Assessment Roll.~~

(3) The Board reserves the right to amend, create, or dissolve MSBUs upon its own action, with or without the request or consent of the owners of the properties affected by such action.

E. ELIGIBLE & INELIGIBLE PROPERTY. Municipal Service Benefit Units may be created for the following types of areas and property categories in Seminole County:

- (1) Platted and unplatted (acreage) residential areas where the proposed improvement benefits property owners in a definable geographic area.
- (2) Commercial areas are considered on a case-by-case basis.
- (3) Apartment complexes and/or condominiums are not eligible for construction MSBUs.

F. ELIGIBLE IMPROVEMENTS. The Board will give approval consideration for the creation of an MSBU when the following criterion is met:

- (1) All parcels [100%] to be included in the MSBU are located in Seminole County. All parcels shall be within the unincorporated taxing district of the county or shall be authorized for inclusion in the defined MSBU boundaries by the designated city taxing authority.
- (2) The property upon which the improvement is to be made is publicly owned or legally secured for public purposes.
- (3) Two or more parcels receive benefit and participate in the MSBU.
- (4) Improvement is deemed essential for health, safety or welfare.
- (5) The desired improvements are consistent with the four following categories of MSBUs:
 - (a) Aquatic weed control;

- (b) Construction/Reconstruction;
 - (i) Neighborhood Walls - Reconstruction of sound/light/security barrier perimeter;
 - (ii) Road Paving & Drainage;
 - (iii) Lake Restoration
 - (iv) Retention pond renovation;
 - (v) Sidewalk Construction and/or Repair;
 - (vi) Sewer Lines;
 - (vii) Water Transmission Lines;
 - (viii) Other public purpose construction projects deemed essential to health, safety or welfare and consistent with Statutes.
- (c) Solid Waste Management - Collection & Disposal;
- (d) Street Lighting for residential areas.

G. INELIGIBLE IMPROVEMENTS. Ineligible improvements include projects, services or improvements not deemed essential for public health, safety, or welfare. Ineligible improvements include, but are not limited to maintenance related services such as associated with landscaping, private roads, retention pond treatments, and routine upkeep of community common areas.

The project criteria for neighborhood wall reconstruction are restricted to the criteria outlined in Section N. Replacement of fencing structures, defined as a barrier enclosing or bordering property usually made of posts and wire or wood used to define subdivision/community boundaries are not eligible for replacement via non-ad valorem assessment. The potential use of the MSBU funding format to provide a reconstruction upgrade from a community fence structure to a community wall structure, or from no prior community structure to a permitted community wall is excluded from consideration.

H. IMPROVEMENT COSTS. All direct cost components associated with obtaining and/or providing the improvement will be assessed to a MSBU. The costs included in an assessment calculation for a MSBU will vary according to the type of MSBU established. The cost may include, but is not limited to the expenditures associated with contracted services, construction, engineering, MSBU administration, tax collection, and financing. Expenses for variable rate MSBUs may also include contingency funds, utility charges and rental charges. Interest expense on funds borrowed during the engineering and construction phase and/or operating phase of an MSBU will be included in assessment calculation.

I. FUNDING.

(1) The funding format for MSBUs will be determined according to the nature of the improvement. A fixed term funding format will be used for improvements, such as

construction projects, that typically consist of a one-time expenditure that will be funded through non-ad valorem assessment to be paid on an installment basis over a period of years. A variable rate funding format will be utilized for improvements that are on-going and for which operating costs will vary over time. The non-ad valorem assessment rate for variable rate MSBUs will be revised annually through Board Resolution.

(2) Separate accounts are maintained for each MSBU. The cost associated with improvements will be allocated equitably and assessed accordingly to the benefiting property. Final determination regarding the terms of repayment will be made by the Board. When deemed necessary by the Board, a financing option will be provided to expedite implementation of the improvements. Unless otherwise merited, assessments will be collected through the uniform method which includes placement of the assigned assessment on the annual property tax bill of the benefiting properties.

(3) Final Assessments for construction improvements that are paid within 30 days of the Final Public Hearing will be exempt from long-term interest fees. Repayment after that date will be billed according to the uniform method of billing and collecting non-ad valorem assessments. Early payoff is permissible and payoff calculations will include principal balance and accrued interest.

(4) Installation and construction costs for street lighting requested by developers must be paid prior to project implementation.

J. BENEFITING PROPERTY. All benefiting properties will be assessed an equitable cost share of improvements provided to the MSBU. The properties typically receiving benefit and included in assessment calculations for each type of MSBU are as identified below:

(1) Aquatic Weed Control and/or Lake Restoration: Properties on waterfront with direct access to waterbody. Includes all zoning and DOR classifications. Community/common area waterfront property may be included as assessable participating property when defining the boundaries of an aquatic weed control or lake restoration MSBU if deemed appropriate by the MSBU Program and Board. Statutory provisions applicable to assessment allocation for common land will apply.

(2) Street Lighting: Both vacated & occupied properties, with or without building structure(s) are eligible for assessment. Benefit is generally confined to a specific subdivision or geographic area for which the infrastructure (lighting equipment) was intended to benefit. Determination of benefit may be conducted on a case-by-case basis by the MSBU Program.

(3) Solid Waste Management: Both vacated and occupied residential properties with habitable residential structures. Builders and/or individuals issued permits for new residential dwellings in unincorporated Seminole County are assigned a solid waste management assessment at the time of permit issuance.

(4) Construction MSBU: Assessable properties are determined on a case-by-case basis due to variations in types of construction improvements and benefits derived from each type of improvement.

(5) For All MSBU Categories other than aquatic weed control and/or lake restoration: Community/subdivision common areas are not directly assessed a cost share. Cost allocation for such properties is assessed indirectly as a result of the assessments assigned to the properties benefiting from the common property.

(6) For All MSBU Categories: Properties that have taxable value less than \$100 will not be assessed, unless authorized as per above section J(1).

(7) For All MSBU Categories: Parcels that are combined for consolidation of tax billing purposes will be assessed according to benefit definition for each sub-parcel unit included on consolidated billing statement.

K. SELECTION OF CONTRACTOR(S) AND/OR SERVICE PROVIDERS.

(1) Construction work is performed by independent contractors selected by the County. Bids for construction will be solicited by the Seminole County Purchasing Division. The Award must be in conformance with Chapter 220 of the Seminole County Code.

(a) For community requested projects, when an approved project cost estimate is recalculated using information derived from final engineering or from responsive procurement bid(s), and the results represent a project cost increase of greater than 20% above the approved amount, an additional petition process reflecting the revised cost estimate will be conducted. When applicable, the secondary petition may include project scope alternatives for community consideration. The petition response will be used to determine the continuation status of the project. Should the petition process demonstrate the standard level of required support, a secondary public hearing will be held to confirm project continuation. Should the petition fail to demonstrate the required support to continue the project, a public hearing will be held to consider dissolving the MSBU.

(b) All expenses incurred in support of the developing MSBU will be assessed against the MSBU properties whether or not the secondary petition provides the required support to move forward with the project.

(2) Service providers for street lighting MSBUs are subject to the utility franchise agreements set forth by the Public Service Commission. To accomplish the mission and purpose of providing street lighting to the MSBUs approved by the Board for inclusion in the Consolidated Street Lighting Ordinance, the MSBU Program is authorized to coordinate installation of the improvements with signature approval granted to the Fiscal Services Department Director or designee.

L. COORDINATION OF IMPROVEMENTS FOR ESTABLISHED MSBUS. The Board recognizes that the MSBU Program will be required to respond to administrative issues and customer requests for modification to the improvements provided to

established MSBUs. To accomplish the mission and purpose of providing ongoing improvements for communities in which variable rate MSBUs are established the MSBU Program is authorized to accommodate administrative changes that are consistent with the intent of the MSBU Program Administrative Code. The MSBU Program is authorized to coordinate improvements for these MSBUs with signature approval granted to the Fiscal Services Department Director or designee. The range and/or limitations of this administrative authority shall be defined in the ordinance governing the MSBU(s).

M. MSBU DISSOLUTION. An MSBU established by Ordinance may be dissolved by a Resolution repealing the establishing Ordinance. The MSBU dissolution process is initiated when the services or improvements approved for provision through the MSBU process are canceled prior to being provided, or when the services or improvements are discontinued after having been provided for a period of time. The process of dissolution may be initiated by Board action or by community based request.

(1) When the MSBU dissolution process is initiated by Board action, the following steps will be involved in the process:

(a) Dissolution Request – the MSBU Program shall present dissolution request to Board with request to schedule public hearing to grant consideration for adopting a Resolution for such dissolution.

~~(a)(b) Resolution of Intent to Dissolve MSBU – Resolution shall be considered at a public hearing. declaring intent to dissolve MSBU, including Resolution shall include details regarding any outstanding costs to be incurred and/or assessed as a result of or subsequent to dissolution, and date of associated public hearing.~~

~~(b) Public Hearing – Resolution confirming status of MSBU.~~

(2) When the MSBU dissolution process is initiated by community based request, the following steps, as further defined ~~defined~~ in Section N, will be involved in the process:

(a) Application, - community request to dissolve MSBU

(b) Petition, - indicator of community support to dissolve MSBU. Petition shall include details regarding any outstanding costs to be incurred and/or assessed as a result of or subsequent to dissolution.

(c) Dissolution Request – the MSBU Program shall present dissolution request to Board with request to schedule public hearing to grant consideration for adopting a Resolution for such dissolution.

~~(c)(d) Resolution of Intent to Dissolve MSBU – Resolution shall be considered at a public hearing. Resolution shall include declaring intent to dissolve MSBU, including details regarding any outstanding costs to be incurred and/or assessed as result of or subsequent to dissolution, and date of associated public hearing.~~

~~(d) Public Hearing Resolution confirming status of MSBU.~~

N. COMMUNITY BASED REQUESTS FOR MSBU CONSIDERATIONS. As specified in Section D, the process of establishing, modifying, or dissolving an MSBU may be initiated by community based requests. When requests are so initiated, the following steps are involved in the process:

(1) APPLICATION & PROCESSING FEE.

(a) A community initiated request for establishing an MSBU requires application. A completed application specific to the type of improvement requested and payment of the specified non-refundable application fee is required to initiate the MSBU process. The application documentation will include identification of a community liaison.

(b) Aquatic Weed Control and Construction MSBU projects are intended to assist established communities, and therefore, are not available during land development and/or new construction environments.

~~(c)~~ Street Lighting MSBU applications may be submitted by interested property owner(s), homeowner associations, management companies or developers.

(d) Wall reconstruction projects are intended to assist established communities, and are therefore, not available during development and/or new/construction environments. In addition to the basic eligibility standards noted in Section F, the project specific criterion for wall reconstruction that must be met at time of application is as follows:

- Existence of a damaged, destroyed, and/or deteriorating community wall (brick, block, precast concrete)
- Community has no means to levy/enforce a private assessment for wall replacement
- Owner has signed Letter(s) of Intent for temporary easement/leasehold to be granted to the County from all owners of properties upon which the proposed wall will be located. NO WALL PROJECT MAY PROCEED WITHOUT THE COUNTY RECEIVING TRANSFER OF OWNERSHIP/EASEMENT DOCUMENTS FROM 100% OF THE OWNERS OF PROPERTY UPON WHICH THE PROPOSED WALL WILL BE LOCATED.
- Construction material requested is brick, block/stucco, or precast concrete
- Applicant: (1) will provide sealed design/engineering plans suitable for public bid/procurement, (2) will substantiate ability to fund preliminary engineering, or (3) requests precast concrete construction that does not require design/engineering.

Community wall reconstruction projects may include provisions for:

- demolition and removal of existing wall
- receipt of wall design plans that are secured independent of County assistance via private funding or secured via wall design services that are: (1) County contracted and prepaid by the applicant or other community liaisons, and/or (2) obtained in conjunction with construction services base on preliminary drawings of desired design
- replacement construction

A community wall is defined as a permanent upright structure constructed of concrete block, brick, or precast concrete used to prevent entrance, provide sound barrier, provide light abatement, and/or to mark a subdivision or community boundary. Replacement of fencing structures, defined as a barrier enclosing or bordering property usually made of posts and wire or wood used to define subdivision/community boundaries are not eligible for replacement via non-ad valorem assessment. The potential use of the MSBU funding format to provide a reconstruction upgrade from a community fence structure to a community wall structure, or from no prior community structure to a permitted community wall is excluded from consideration.

(2) **PRELIMINARY ENGINEERING & STATEMENT OF PROBABLE COST.**
Construction improvements require a preliminary engineering report or project analysis to obtain a valid “Opinion of Probable Cost” estimate. A Lake Analysis is required for MSBU aquatic weed control improvement requests. Preliminary Engineering Report fees and Lake Analysis fees must be received from the applicant(s) prior to these services being rendered. ~~Property owners are responsible for the cost of all engineering or analysis services performed and will be charged for the cost of the plans whether or not the improvements are constructed or performed.~~ If the improvements are constructed or services performed, the property owners who contributed to the “Opinion of Probable Cost” report fee will be given a credit against their assessment or will receive a refund in the amount of the initial contribution may be granted according to the amount and source of contribution(s) received for pre-funding the report/analysis fee. If the improvements are not constructed or the services are not performed, contributions toward the cost of preliminary lake/waterway analysis will not be refunded.

(3) **PETITION FOR IMPROVEMENT.**

(a) As a part of the application processing activities, a petition process is used for community requested MSBUs to ensure community awareness and involvement in the decision-making process, to increase recognition of the public nature of the improvements, and to highlight the property owner’s responsibility for payment of the assessments. Property owners not responding to the petition either “Favorable” or “Opposed” will be counted in the final tally as “Opposed”. The petition process may be waived when 100% of the properties to be included in a MSBU are owned by a single owner.

(b) All requests requiring petition approval, including MSBU dissolutions, are coordinated through the MSBU Program. A community liaison for the MSBU is authorized to assist in the petition collection activities for creating an MSBU.

(c) The minimum percentage required for petition acceptance is as follows:

- (i) Street Lighting MSBU: At least 55% of the property owners representing 55% of the properties within the MSBU boundaries.
- (ii) All Other MSBUs: At least 65% of the property owners representing 65% of the properties within the MSBU boundaries.

Note: Construction projects may also be subject to the requirements noted under Section M.

(d) Following the acceptance of the Petition and authorization by the Board to schedule and advertise a public hearing, the petition is no longer relevant to the final determination by the Board of County Commissioners to proceed (or not) with the project. The Board may waive the 55% or 65% property owner requirement, which remains consistent with Chapter 125.01(q)1, Florida Statutes.

(4) EASEMENTS, LEASEHOLD, DEED TRANSFERS. All MSBU projects that require the granting of easement, leasehold, and/or deed transfer are subject to mandatory agreement from 100% of the property owners from whom such easements, leaseholds, and/or deed transfers are required. The documents formalizing such agreement are required prior to scheduling a public hearing for Board consideration to establish the MSBU. Should the applicant/liaisons or designees fail to obtain 100% of the necessary signature agreements, the project will be rejected and/or subject to further petitioning if the resulting project parameters, due to limitations of documents received, deviate from parameters noted in qualifying petition.

(5) PUBLIC HEARING. The final determination of the scope and feasibility of an improvement will be made by the Board at a public hearing. The initial determination of property assessments proposed for the MSBU will be determined at the public hearing. Construction projects will be subject to a second public hearing following completion of the project. Property assessments will be determined at one of these two public hearings.

(6) DESIGN, ENGINEERING AND OTHER PROJECT RELATED EXPENDITURES. All direct costs incurred by the County on behalf of pursuing a Board authorized MSBU project will be recouped through non-ad valorem assessment assigned to the properties that are included in the assessment boundary of the MSBU. Direct costs are inclusive of, but not limited to project scope analysis, design and engineering, contracted services, project management, and financial administration. Such costs will be included in the final assessment calculation upon completion of the project, or shall be included in an assessment to be levied should the project continuation be withdrawn by the benefiting community, or by community based request for MSBU dissolution.

~~(6)~~(7) DISSOLUTION PROCESS FOR MSBUS.

(a) A MSBU can only be dissolved after having first been created by ordinance at a public hearing. Community requested dissolution proceedings are initiated through the application process. The application process for dissolution includes, but is not limited to written application, payment of application fee, documented supportive response to the petition coordinated by the MSBU Program, public hearing, confirmation by the Board that the MSBU may be dissolved, and determination of final assessments as a result of dissolution.

(b) A Petition for Dissolution of a street lighting MSBU must be signed by at least 55% of the current property owners representing 55% of the properties within the MSBU boundaries. Petition for Dissolution of all other MSBUs must be signed by at least 65% of the current property owners representing 65% of the properties within the MSBU boundaries.

(c) MSBUs having received supplemental funding from the County may be subject to dissolution restrictions.

- O. AUTHORITY.** Approved by the BCC June 27, 1989
Resolution 2007-R-140 adopted August 14, 2007
Resolution 2009-R-7 adopted January 13, 2009



CANDLER WOOD

APPLE VALLEY













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For Lease
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