

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Proposed Disclosure of Ownership Interests Ordinance

DEPARTMENT: County Attorney's Office **DIVISION:** Other

AUTHORIZED BY: Lola Pfeil **CONTACT:** Sharon Sharrer **EXT:** 7257

MOTION/RECOMMENDATION:

Authorize the Chairman to execute an ordinance amending the Seminole County Code and dealing with disclosure of ownership interests in real property.

County-wide

BACKGROUND:

See attached.

ATTACHMENTS:

1. Agenda Memo-Disclosure of Ownership Interests
2. Ordinance
3. Economic Impact Statement Ordinance
4. Ownership Disclosure Application-Form

Additionally Reviewed By: No additional reviews

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Proposed Disclosure of Ownership Interests Ordinance

DEPARTMENT: County Attorney **DIVISION:** _____

AUTHORIZED BY: Robert A. McMillan **CONTACT:** Kimberly Romano ^{KR} **EXT.** 7254

Agenda Date <u>7/24/07</u>	Regular <input type="checkbox"/>	Consent <input type="checkbox"/>	Work Session <input type="checkbox"/>	Briefing <input type="checkbox"/>
	Public Hearing – 1:30 <input checked="" type="checkbox"/>		Public Hearing – 7:00 <input type="checkbox"/>	

BACKGROUND

On November 7, 2006, by referendum vote, the voters of Seminole County approved a charter amendment requiring the County to enact an ordinance that would mandate the disclosure of true ownership interests in real property that is the subject of an application for a rezone, future land use amendment, special exception, or variance. The attached ordinance requires disclosure of ownership interests in all such applications, including disclosure of all true parties in interest in any corporation, trust, partnership or other legal entity which is referenced in the application as an owner. The ordinance further provides that if an applicant claims that disclosure of an ownership interest would violate the confidentiality requirements of any applicable law or regulation, staff may process the application without disclosure. In such cases, the applicant would have the responsibility to defend and hold harmless the County in any litigation challenging the non-disclosure. In addition to the standard penalties for violation of any County Ordinance set forth in the Seminole County Code, this ordinance provides, as required by the Charter, any land use decision subject to the disclosure requirement shall be void if disclosure is not made as required but that any challenge must be brought within the time frame for judicial review of the decision.

Based on Board discussion at the June 24, 2007 meeting, the confidentiality provisions have been clarified. In addition, other minor clerical revisions have been made.

The ordinance must be in place by January 8, 2008 pursuant to the Charter requirement, so adoption must be accomplished prior to the end of the calendar year.

Attachment

1. Disclosure of Ownership Interests Ordinance

Reviewed by:	_____
Co Atty:	<u>KR</u>
DFS:	_____
Other:	_____
DCM:	_____
CM:	_____
File No.	_____

AN ORDINANCE AMENDING THE SEMINOLE COUNTY CODE AND DEALING WITH THE DISCLOSURE OF OWNERSHIP INTERESTS IN REAL PROPERTY IN APPLICATIONS FOR REZONINGS, FUTURE LAND USE AMENDMENTS, SPECIAL EXCEPTIONS AND VARIANCES; CREATING CHAPTER 74 OF THE SEMINOLE COUNTY CODE ENTITLED "ETHICS"; CREATING SECTION 74.1 OF THE SEMINOLE COUNTY CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on November 7, 2006, by referendum vote, the voters of Seminole County approved a charter amendment requiring the County to enact an ethics ordinance affecting applications for rezonings, future land use amendments, special exceptions, and variances;

WHEREAS, such ethics ordinance must require disclosure in all applications for rezonings, future land use amendments, special exceptions, and variances of the names of all ownership interests in the affected real property, including all true parties in interest in any corporation, trust, partnership or other legal entity which is referenced in the application as an owner;

WHEREAS, an economic impact statement has been prepared and is available for public review in accordance with the provisions of the Seminole County Home Rule Charter; and

WHEREAS, the private property rights analysis relating to this Ordinance has been prepared and made available for

public review in accordance with the requirements of the Seminole County Comprehensive Plan (SCCP); and

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

Section 1. Chapter 74, Seminole County Code is hereby created, to read as follows: **Chapter 74. Ethics**

Section 2. Section 74.1 is hereby created, to read as follows: **Section 74.1. Ownership Disclosure Requirements in Land Development Applications.**

(a) All applications which request rezoning, a comprehensive plan amendment, a special exception, or a variance within unincorporated Seminole County shall include the identification of each person, corporation, partnership, or trust as well as the identity of contract purchasers, if any, who have ownership or an equitable ownership interest in the real property which is the subject matter of the application. Applications initiated by the County shall be required to include only ownership or equitable ownership information as reflected on the tax rolls. Forms pertaining to the identification of owners shall be made available by the Director of Planning and Development, and shall be required to be completed and An executed and notarized disclosure form must be submitted prior to an application being deemed complete. Without the

submittal of the required disclosure form (for non County-
initiated applications), the Director of Planning and
Development shall not deem the application complete and
shall not forward the application for staff review by the
development review committee or schedule it for public
hearing before either the Planning and Zoning Board
Commission, the Board of Adjustment or the Board of County
Commissioners. The County shall maintain completed forms on
file for public inspection.

(b) Agenda materials distributed to the Planning and
Zoning Board Commission, the Board of Adjustment, or the
Board of County Commissioners, concerning all public
hearings on an application, shall include a copy of the
completed disclosure form.

(c) The identification of owners required by this section
shall include the following information, as to each type of
owner:

(1) All natural persons who have an ownership interest in
the property that is the subject matter of the application,
by name, address, and ownership percentage.

(2) For each corporate owner, the name and address and
title of each officer of the corporation, the name and
address of each director of the corporation, and the name
and address of each shareholder who owns two percent or

more of the stock of the corporation. Provided, however, that shareholders need not be disclosed as to corporations whose shares of stock are traded publicly on any national stock exchange.

(3) In the case of a trust, the name and address of each trustee and the name and address of the beneficiaries of the trust including the percentage of interest of each beneficiary. If any trustee or beneficiary of a trust is a corporation, the identification requirements of subsection (2) above shall apply.

(4) For partnerships, including limited partnerships, the name and address of each principal in the partnership, including general or limited partners and their percentages of ownership interest in the partnership. If any partner is a corporation, the identification requirements of subsection (2) above shall apply.

(5) In the circumstances of a contract for purchase, the name of each contract purchaser, along with the names, addresses, and percentages of interest which are required by the appropriate subparagraphs above for corporations, trusts or partnerships who file an application. In addition, the date of the contract for purchase shall be specified along with any contingency clause relating to the outcome of the consideration of the application.

(6) As to any type of owner referred to in this section, a change of ownership or percentage of interest between owners occurring subsequent to the application submission, shall be disclosed to the Director of Planning and Development prior to the date of the public hearing on the application by either the Planning and Zoning Board Commission, Board of Adjustment or the Board of County Commissioners. This supplemental disclosure shall be made in writing.

(7) If an applicant claims that disclosure of an ownership interest would violate the confidentiality requirements of any applicable law or regulation, the applicant must: cite such statute or regulation on the application. (1) so state on the disclosure form, (2) cite the statute or regulation that prohibits disclosure of such ownership interest, and (3) submit an opinion of legal counsel indicating that disclosure would violate the cited statute or regulation. The County Attorney's Office shall review all applications that contain an assertion of confidentiality to verify the legal existence of the confidentiality requirement cited. Upon such verification, the application may be processed without disclosure but it will be the applicant's responsibility to defend and hold harmless the County regarding any litigation challenging the non-disclosure or

the applicability of the confidentiality requirement to the applicant.

(8) Upon a judicial determination that an application for rezoning, comprehensive plan amendment, special exception, or variance was obtained without disclosure of ownership interests as required hereby, the approval of such application shall be void, provided any such action was filed within the time allowed for appeal of the underlying determination. No action filed after the jurisdictional deadline for an appeal of the underlying land use decision shall result in the voiding of that decision.

Section 3. Severability. If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by the Court to be unconstitutional, inoperative, or void, such section, paragraph, sentence, clause, phrase or word may be severed from this ordinance and the balance of this Ordinance shall not be affected thereby.

Section 4. Codification. It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Seminole County Code and that the word "Ordinance" may be changed to "section," "article," or other appropriate word and the

sections of this ordinance may be renumbered or relettered to accomplish such intention.

Section 5. Effective Date. This Ordinance shall become effective on October 1, 2007.

ENACTED this _____ day of _____, 2007.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida

CARLTON HENLEY, Chairman

ECONOMIC IMPACT STATEMENT

DATE: July 5, 2007

DEPT./DIVISION: CAO

CONTACT PERSON: Kimberly Romano

EXTENSION: 7253

DESCRIBE PROJECT/PROPOSAL:

As a result of the referendum vote of November 7, 2006, an ordinance is proposed that requires disclosure in all applications for rezonings, future land use amendments, special exceptions, and variances of the names of all ownership interests in the affected real property, including all true parties in interest in any corporation, trust, partnership or other legal entity which is referenced in the application as an owner.

DESCRIBE THE DIRECT ECONOMIC IMPACT OF THE PROJECT/ PROPOSAL UPON THE OPERATION OF THE COUNTY:

None or minimal.

DESCRIBE THE DIRECT ECONOMIC IMPACT OF THE PROJECT/ PROPOSAL UPON THE PROPERTY OWNERS/TAX PAYERS/CITIZENS WHO ARE EXPECTED TO BE AFFECTED:

None or minimal. Requirement to disclose all ownership interests in the property may add some expense to the application process but most of the information should be available to owner without significant increased expenses.

IDENTIFY ANY POTENTIAL INDIRECT ECONOMIC IMPACTS, POSITIVE OR NEGATIVE WHICH MIGHT OCCUR AS A RESULT OF THE PROJECT PROPOSAL:

None or minimal.

SEMINOLE COUNTY
APPLICATION & AFFIDAVIT

Ownership Disclosure Form

Please provide the information as requested below in accordance with Ordinance No. 07- _____:

1. List all natural persons who have an ownership interest in the property, which is the subject matter of this petition, by name, address, and ownership percentage.

Name: _____	Name: _____
Address: _____	Address: _____
Phone #: _____	Phone #: _____
Ownership Percentage: _____	Ownership Percentage: _____

Name: _____	Name: _____
Address: _____	Address: _____
Phone #: _____	Phone #: _____
Ownership Percentage: _____	Ownership Percentage: _____

(Use additional sheets for more space.)

2. For each corporate owner, list the name, address, and title of each officer of the corporation, the name and address of each director of the corporation, and the name and address of each shareholder who owns 2% or more of the stock of the corporation. Shareholders need not be disclosed as to corporations whose shares of stock are traded publicly on any national or regional stock exchange.

Name of Corporation: _____	Name of Corporation: _____
Officers: _____	Officers: _____
Address: _____	Address: _____
Directors: _____	Directors: _____
Address: _____	Address: _____
Shareholders: _____	Shareholders: _____
Address: _____	Address: _____

(Use additional sheets for more space.)

3. In the case of a trust, list the name and address of each trustee and the name and address of the beneficiaries of the trust including the percentage of interest of each beneficiary.

Name of Trust: _____	
Trustees: _____	Beneficiaries: _____
Address: _____	Address: _____
_____	Percentage of Interest: _____

(Use additional sheets for more space.)

SEMINOLE COUNTY

Form #
Date

APPLICATION AND AFFIDAVIT

4. For partnerships, including limited partnerships, list the name and address of each principal in the partnership, including general or limited partners and their percentage of ownership interest in the partnership.

Name of Partnership: _____	Name of Partnership: _____
Principal: _____	Principal: _____
Address: _____	Address: _____
Percentage of Ownership: _____	Percentage of Ownership: _____

(Use additional sheets for more space.)

5. In the circumstances of a contract for purchase, list the name of each contract vendee, with the names and addresses and percentages of interest, the same as required for corporations, trust, or partnerships. In addition, the date of the contract for purchase shall be specified along with any contingency clause relating to the outcome of the consideration of this petition.

Contract Vendee: Name: _____	Contract Vendee: Name: _____
Address: _____	Address: _____
Percent of Interest: _____	Percent of Interest: _____

(Use additional sheets for more space.)

6. As to any type of owner referred to above, a change of ownership or percentage of interest between owners occurring subsequent to this application, shall be disclosed in writing to the Planning and Development Director prior to the date of the public hearing on the application.
7. I affirm that the above representations are true and are based upon my personal knowledge and belief after all reasonable inquiry. I understand that any failure to make mandated disclosures is grounds for the subject rezone, future land use amendment, special exception, or variance involved with this Application to become void. I certify that I am legally authorized to execute this Application and Affidavit and to bind the Applicant to the disclosures herein.

_____ Date

_____ Owner, Agent, Applicant Signature

For Use by the Office of the City Auditor and Clerk	
Date: _____	Application Number: _____