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July 20, 2018

RE: The Guardians of Martin County, Inc./ Memorandum  
Petition to Establish the Harmony Ranch Community Development  
District

Sarah Woods ,Martin County Attorney  
2401 SE Monterey Road  
Stuart, Florida 34996

Dear County Attorney Woods,

Please find the Memorandum from The Guardians of Martin County, Inc. which I would like to offer into evidence and make part of the record of the hearing before the Board of County Commissioners scheduled for Tuesday July 24, 2018.

Very truly yours,

*/s/ Jack Schramm Cox*  
Jack Schramm Cox , General Counsel

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REGISTRATION# CH30115

**IN THE MARTIN COUNTY FLORIDA,  
BOARD OF COUNTY COMMISSIONERS**

**IN RE:  
A RULE TO ESTABLISH  
THE HARMONY RANCH  
COMMUNITY DEVELOPMENT DISTRICT**

Dear Commissioners and Petitioner

The Guardians of Martin County, Inc., a 501(3) Florida Corporation Not for Profit, wishes to comment on the Petition to Establish the Harmony Ranch Community Development District filed by the Hobe Sound Ranch, Ltd. and requests that this written comment be made part of the Record of the hearing and proceedings. For ease of reference I have incorporated portions of Chapter 190, Florida Statutes.

The Legislature has recognized a need for a (CDD) Community Development District where there is a financing need for delivery of basic community development services and capital infrastructure.

**190.002 Legislative findings, policies, and intent.--**

(1) The Legislature finds that:

(a) There is a need for uniform, focused, and fair procedures in state law to provide a reasonable alternative for the establishment, power, operation, and duration of independent districts to manage and finance basic community development services; and that, based upon a proper and fair determination of applicable facts, an independent district can constitute a timely, efficient, effective, responsive, and economic way to deliver these basic services, thereby providing a solution to the state's planning, management, and financing needs for delivery of capital infrastructure in order to service projected growth without overburdening other governments and their taxpayers.

The Legislator makes it clear though that a CDD does not have any zoning or permitting power.

(c) That the exercise by any independent district of its powers as set forth by uniform general law comply with all applicable governmental laws, rules, regulations, and policies governing planning and permitting of the development to be serviced by the district, to ensure that neither the establishment nor operation of such district is a development order under chapter 380 and that the district so established does not have any zoning or permitting powers governing development.

(3) It is the legislative intent and purpose, based upon, and consistent with, its findings of fact and declarations of policy, to authorize a uniform procedure by general law to establish an independent special district as an alternative method to manage and finance

basic services for community development. It is further the legislative intent and purpose to provide by general law for the uniform operation, exercise of power, and procedure for termination of any such independent district. It is further the purpose and intent of the Legislature that a district created under this chapter not have or exercise any zoning or development permitting power, that the establishment of the independent community development district as provided in this act not be a development order within the meaning of chapter 380, and that all applicable planning and permitting laws, rules, regulations, and policies control the development of the land to be serviced by the district. It is further the purpose and intent of the Legislature that no debt or obligation of a district constitute a burden on any local general-purpose government without its consent.

**190.004 Preemption; sole authority.—**

(3) The establishment of an independent community development district as provided in this act is not a development order within the meaning of chapter 380. All governmental planning, environmental, and land development laws, regulations, and ordinances apply to all development of the land within a community development district. Community development districts do not have the power of a local government to adopt a comprehensive plan, building code, or land development code, as those terms are defined in the Community Planning Act. A district shall take no action which is inconsistent with applicable comprehensive plans, ordinances, or regulations of the applicable local general-purpose government.

The hearing before the Board of County Commissioners is a fact-finding hearing. IT IS THEREFORE EVIDENTIARY. The petition itself is not evidence and it is the burden of the Petitioner to bring forth at the hearing sufficient facts to allow the Commission to make these findings. The 6 factors that the Commission has to consider are set forth below. Each of the 6 must be consider separately and the Commission must make a separate finding as to each one.

**190.005 Establishment of district.**

1) The exclusive and uniform method for the establishment of a community development district with a size of 2,500 acres or more shall be pursuant to a rule, adopted under chapter 120 by the Florida Land and Water Adjudicatory Commission, granting a petition for the establishment of a community development district.

(c) Such county and each such municipality required by law to receive a petition may conduct a public hearing to consider the relationship of the petition to the factors specified in paragraph (e)

**NOTE ..requirements of paragraph (e)**

...and the following factors and make a determination to grant or deny a petition for the establishment of a community development district:

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

The Guardians believe that due process is best served by allowing the Petitioner to put on all evidence it wishes in support of its Petition. However, many of the 6 Factors depend on facts and evidence previously submitted to the Commission in recent Public Hearings involving this property. Therefore, the Guardians request and offer into evidence in this hearing, all of the previous records, transcripts, and all evidence of all previous Public Hearings relating to this property. We further request that all theses records be made part of the record of this hearing and be transmitted to the Florida Land and Water Adjudicatory Commission for their review and included in their record.

By making this request and offer of evidence, the Guardians do not support or object to the petition, as we have not seen the evidence of the Petitioner.

The Guardians reserve the right to be present and to offer additional evidence before the Administrative hearing Officer at the local public hearing as provide below as well as at The Florida Land and Water Adjudicatory Commission.

**190.005 1(c) continued**

*The public hearing shall be concluded within 45 days after the date the petition is filed unless an extension of time is requested by the petitioner and granted by the county or municipality. The county or municipality holding such public hearing may*

by resolution express its support of, or objection to the granting of, the petition by the Florida Land and Water Adjudicatory Commission. A resolution must base any objection to the granting of the petition upon the factors specified in paragraph (e). Such county or municipality may present its resolution of support or objection at the Florida Land and Water Adjudicatory Commission hearing and shall be afforded an opportunity to present relevant information in support of its resolution.

(d) A local public hearing on the petition shall be conducted by a hearing officer in conformance with the applicable requirements and procedures of the Administrative Procedure Act. The hearing shall include oral and written comments on the petition pertinent to the factors specified in paragraph (e). The hearing shall be held at an accessible location in the county in which the community development district is to be located. The petitioner shall cause a notice of the hearing to be published in a newspaper at least once a week for the 4 successive weeks immediately prior to the hearing. Such notice shall give the time and place for the hearing, a description of the area to be included in the district, which description shall include a map showing clearly the area to be covered by the district, and any other relevant information which the establishing governing bodies may require. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be published in a newspaper of general paid circulation in the county and of general interest and readership in the community, not one of limited subject matter, pursuant to chapter 50. Whenever possible, the advertisement shall appear in a newspaper that is published at least 5 days a week, unless the only newspaper in the community is published fewer than 5 days a week. In addition to being published in the newspaper, the map referenced above must be part of the online advertisement required pursuant to s. 50.0211. All affected units of general-purpose local government and the general public shall be given an opportunity to appear at the hearing and present oral or written comments on the petition.

(e) The Florida Land and Water Adjudicatory Commission shall consider the entire record of the local hearing, the transcript of the hearing, resolutions adopted by local general-purpose governments as provided in paragraph (c), and the following factors and make a determination to grant or deny a petition for the establishment of a community development district:

1. Whether all statements contained within the petition have been found to be true and correct.
2. Whether the establishment of the district is inconsistent with any applicable element or portion of the state comprehensive plan or of the effective local government 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 district is the best alternative available for delivering community development services and facilities to the area that will be served by the district.

5. Whether the community development services and facilities of the 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 district is amenable to separate special-district government.

The Guardians recognize that the Commission can only adopt a resolution either supporting the Petition or objecting to the Petition. Similarly, The Florida Land and Water Adjudicatory Commission can only adopt a Rule containing 3 findings. Those findings are set forth below. It goes without saying, that only the relief asked for in the Petition can be approved. That relief requested is the establishment of a CDD for roadways, drainage and landscaping.

(f) The Florida Land and Water Adjudicatory Commission shall not adopt any rule which would expand, modify, or delete any provision of the uniform community development district charter as set forth in ss. 190.006-190.041, except as provided in s. 190.012. A rule establishing a community development district shall only contain the following:

1. A metes and bounds description of the external boundaries of the district and any real property within the external boundaries of the district which is to be excluded.

2. The names of five persons designated to be the initial members of the board of supervisors.

3. The name of the district..

The Guardians observe that the statute allows CDDs special powers, however the CDD is subject to, and remains subject to, the County's regulatory and permitting authority. The CDD is also subject to all applicable governmental bodies and agencies.

190.012 Special powers; public improvements and community facilities.—The district shall have, and the board may exercise, subject to the regulatory jurisdiction and permitting authority of all applicable governmental bodies, agencies, and special districts having authority with respect to any area included therein, any or all of the following special powers relating to public improvements and community facilities authorized by this act:

The Guardians point out that the following statement in Exhibit 3 to the Petition is in need of clarification.

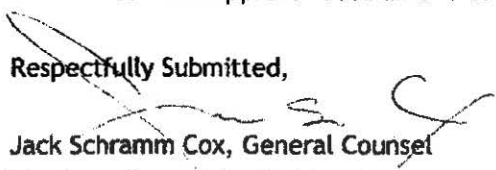
"The property represents a portion of the real property to be include  
In the Proposed CDD."

What other property is going to be included?

The Guardians would request that any approval resolution, if any, contain a confirmation that:

1. Only the relief requested in the Petition is approved.
2. The County has not, does not, and will not waive any regulatory Powers of the County relative to the property.
3. The Approval does amend or modify any County Regulations or ordinances.

Respectfully Submitted,



Jack Schramm Cox, General Counsel  
The Guardians of Martin County, Inc.