

## ***Whiskey Creek/Summerlin Road Wall***

# **FAQ**

### ***(Frequently Asked Questions)***

#### ***What's being proposed?***

The plan is to form a **Municipal Services Benefit Unit** (MSBU) of the entire Whiskey Creek community in order to pay for the wall's replacement and to then turn the completed wall over to the existing Whiskey Creek Municipal Services Taxing Unit (MSTU) for maintenance by the county. Whiskey Creek residents would agree to assess themselves one time to pay for this \$1.2 million project after it is built. The county's funding formula charges the property owners who "own" the current wall \$62 per linear foot of wall on their property to pay for 25% of the final cost (since they get a direct benefit from the wall's replacement), and it also charges all 1,575 affected property owners in Whiskey Creek a flat per-parcel assessment of about \$569 to pay for the remaining 75% (since we all get an indirect benefit from having a wall in place).

If more than 50% of the property owners agree to this assessment (which is spelled out in greater detail elsewhere in this package), the county will form the MSBU, work with property owners on necessary easements, and arrange to borrow money to fund demolition of the old wall and construction of the new wall. When construction is complete and all the bills are in (probably in 2010), the county will ask property owners to pay their assessments — either up front to save interest charges or over 10 years. (A sample breakdown of what you might pay using this system is included on the petition form.)

#### ***Why now?***

Because we can get the best price by working in conjunction with the Summerlin Road overpass/widening project currently under way. But that means we have to move forward quickly, so wall construction can begin while the road project is still being built.

#### ***Why should all of us pay?***

Because this wall is a community asset that needs to be supported by the entire neighborhood. If we make this a community project, we can ensure the wall is consistently built, is properly maintained and is a benefit to our neighborhood for years to come.

#### ***Why doesn't the county pay for the wall?***

Because it's viewed as an existing neighborhood amenity, and county policy is not to pay to replace existing walls during construction projects — only to install new walls when road projects create a new "nuisance."

#### ***Why shouldn't we wait until we need to act?***

The wall is already falling down in spots, and won't be getting any stronger in the years to come. If we wait until it falls down, it will still take months (if not years) to replace it — at a higher cost — leaving our neighborhood without this protective buffer whose loss harms our property values, our security and our community's image.

***Why should I say "yes"?***

Because if this community does not come together to fix this problem, it won't get done.

***If I support this project, what should I do?***

It's easy: Send your signed and notarized MSBU petition (which is in this packet) back to us using the envelope enclosed (the address is Whiskey Creek Civic Association, P.O. Box 07023, Fort Myers, FL 33919.) Petitions must be received by May 1, 2009; once we have a sufficient number (at least more than 50%), we will take them to the county for review and to form the unit.

***What will the proposed wall look like?***

It will match the wall to be built north of the golf course canal as part of the retention area for the road project, and will look something like the picture below:



***Is there a cap on the possible cost of the replacement wall?***

Yes. The project has already been bid using the contractor the county already has under contract for the northern wall project. In the language for the MSBU petition (and in the county ordinance concerning such units), if the unit cost exceeds 15% of the estimated cost as presented on the petition the county must go back to the property owners and ask whether they still wish to move forward with the unit at this higher cost. (Such an increase would be the result of unexpected costs of acquiring easements, which would be clear before construction started.)

***If a property title is in two or more names, does each owner have to sign?***

No, only the signature of one owner as listed on the property tax rolls is needed.

***Is there another type of wall that could would cost less and still look "nice"?***

We never got into shopping wall choices, since the original intent behind this was to use the same kind of wall (and the same contractor) as is being built north of the golf course canal as part of the Summerlin project. That would allow us to piggyback on the existing county contract (hopefully saving money) and maintain the same wall "look" all along Summerlin Road. Also, in order for any wall to be turned over to the county, it has to be up to current building codes, which the current wall is not.

***This is a very difficult time for me to be paying for a wall.***

Please understand that no one will be asked to pay anything until after the project is completed and all the bills are in...which will be 2010 at the earliest. At that point, property owners will have the option of paying it over 10 years, further reducing the impact. The petition you received has a breakdown as to what costs could be for both wall owners and non-wall owners in terms of payments.

***Are we signing for a 10 year loan? Since my property isn't next to the wall, does that mean it would be \$568 a year?***

Everyone except those on whose property the wall is located may be assessed a one-time charge of \$568.64 if the project moves forward and the wall is built. Once the final costs are in, the final assessment will be calculated and sent to property owners...at which time they will have the choice of paying the full amount (hopefully \$568.64 or less) at that time with no interest or financing it over 10 years.

***I live in a condo along the wall. How will I be assessed?***

Our understanding was that in the various condo associations who are wall owners, each unit in that association would be assessed the \$568.64 flat fee plus a portion of whatever the assessment the association would face for the common-element wall area, divided up according to the formula spelled out in your condo documents. So, if your association had 500 feet of wall frontage, it would be charged \$30,830 (500 x \$61.66); if your docs said the assessment would be equally divided among the units, then each property would be charged appropriately in whatever way the condo association assesses and collects such things (with the association paying the final bill for its frontage). So if you had 30 units in the association, each unit would be charged \$1,027.66 by the association and \$568.64 by the county.

***I see the petition also means you agree to allow the county access to your property. What's that?***

The explanation we received about access was that it was for construction only, and that maintenance of the wall fronting on Summerlin would be handled by the county through the Whiskey Creek MSTU. Interior maintenance was left to the owners so that county workers would not have to have continual access to your land.

***I own a unit in Whiskey Creek Village Green Section 13. Does that mean I would be liable for the lower amount (\$500 + ) or the higher amount (\$6,000 +)? Is it divided among the 32 units in Section 13 so that I would owe 1/32nd of the \$500 + or 1/32nd of the \$6000+?***

As an owner in Section 13, you will just be charged the \$568.64-per-STRAP fee, as will all the other property owners in Whiskey Creek; you are responsible for the entire fee, as is each of your fellow Section 13 owners. If the project moves forward, once this assessment is finalized (after construction is done and all the bills are in) property owners will have the option of paying the assessment off immediately without interest charges or paying it off over up to 10 years with appropriate interest charges included.

***The letter says 20 single family homes plus four condo associations own the wall. Could you identify them?***

The wall owners include three condo associations -- Village Green Section 7, Village Green Section 14 and Wyldewood Lakes -- and the Whiskey Creek Civic Association (for portions of the wall turned over to it by the developer). In those instances, owners in those units will be charged \$568.64 each (by STRAP number) by the county plus their share of the wall frontage assessment charged to their condo association, apportioned out by the method set for in the condo docs. As an example, if the association has 500 feet of wall frontage at \$61.66 per foot (\$30,830), the association would charge the units accordingly. If there are 30 units and it's divided evenly (as established in the condo docs), each would be charged \$568.64 by the county and \$1,027.66 per their association (this does not include interest charges, as my math skills have their limits). The county has no control over how associations divvy up assessments, only what they are charged for the common-area items; unless the condo docs specify, units would be charged equally whether or not they face the wall (unless there's some way for those to be superseded, which would take a lawyer to decide).

***I was under the impression you would need 100% approval to form this taxing unit. Is that not the case?***

To form the Municipal Services Benefit Unit (MSBU), state law requires approval by at least 50% of the property owners in the proposed unit; we're hoping for a higher number than that as a show of support. When we spoke with people such as yourself who own property along/under the current wall, we were looking for a higher level of support initially as a way to show county staff that the people who would have to provide easements to allow the project to go forward were supportive of the idea. (If there was going to be a big fight about easements once the unit was formed, it had the potential to increase project costs and timeframes.)

We did not need 100% approval from owners, but we wanted pretty unanimous support to know that the project could move forward quickly to make the deadlines we face thanks to the road project. But the MSBU requirement has always been a simple majority...we just did not make a point of that last summer, until we knew whether wall owners would support the project at all.

***Why is only one bid gotten to date? With a project of this size and the county being involved there I believe needs to be three estimates for work done.***

The county went through a competitive bid process to select the contractor it is using for the wall north of the canal, which is the bid we're trying to piggy-back on for this project. You can contact DOT for the specifics of that selection.

***I believe it is a Florida law to have auto insurance. If an automobile runs into it they have property damage insurance that would cover replacement of the damage. Where has all or any of this money gone to -- the homeowners who own that portion damaged?***

By law, drivers should have insurance -- yet, there are a number of drivers who do not. Some of them happen to be the ones who've hit the wall in past accidents. Others have hit the wall and left before they could be apprehended, so there's no way to tag their insurance policy for payment. That leaves the property owners who own the wall liable for its repair.

***The portion of the wall that covers the Country Club should be paid for by the Country Club. Every resident is not a member of the club and therefore should not burden that cost.***

You're not being asked to pay for the County Club wall. The Civic Association owns that stretch and is dealing with payment.

***What is the add-on to our taxes going to be? Once this unit is established and MSTU takes over the wall, there will be additional costs down the road***

The construction of the proposed wall will be a one-time expense by this assessment being discussed. The unit being formed is only for this project, and will cease to exist once the project is complete. Maintenance will be handled by the existing Whiskey Creek Municipal Services Taxing Unit (which already pays for median maintenance, maintaining the McGregor wall, additional security, etc.).

***I believe it is imperative that additional estimates are gotten.***

In order to meet the timetable for the road project and to work with the contractor the county has already selected via a competitive-bid process, rebidding the job cannot occur. If the community decides not to pursue this project and other individuals decide they want to try to replace or repair the wall, there would be time to bid this as many times as you'd like. Many believe the price would be higher, however, if you want a comparable wall to what is being proposed here.

***For this wall to increase someone's property value way away from the wall is a bogus statement.***

Many in the community, including those in the real estate business, would disagree with your comment. If a deteriorating wall lowers the image of the entire community in the eyes of prospective buyers, your property value will suffer -- even if you do not try to sell your home (since values are based on prices paid for comparable properties in the neighborhood).

***Will a new wall help cut the road noise from Summerlin Road?***

To make the wall a real sound buffer, it would have to be engineered as such, which would add a lot of cost and time. Higher is not necessarily better as a buffer, but we're hoping 2-3 additional feet would help with the ground-level noise.

***I'm trying to complete the petition. I cannot figure out what the STRAP# is on the petition ballot. Is it necessary? If so, where would I find out how to find it?***

Your STRAP number was printed on the address label of the envelope in which the petition was mailed. If you have access to the Web, go to [www.leepa.org](http://www.leepa.org) (the property appraiser's site), Under DATABASE SEARCH click on "Property Data Search," type in your address or name and your property information (including STRAP) should come up.

***I'm concerned that the wall property owners will not support this project? What has been done about that?***

We contacted all the wall property owners this summer to assess their interest in this project, and held one meeting in mid-August to also get a sense of support. Of those contacted, only one objected to the idea; most were supportive or wanted more information. That allowed county staff to move forward finalizing the estimate to get them a more defined cost for the project (which did increase slightly from what we had projected).

***I was very surprised, at the recent public meeting, to hear that these assessment decisions were made by a county employee.***

As you look over the county ordinance, also note that how assessment are calculated is implied as a staff function -- if for no other reason than an apportionment plan is necessary to establish a proposed cost for the unit in order for petitions to go out and for a working estimate to be established. (These also have to bear legal scrutiny, so that the county attorney can reasonably assert that the proposed apportionment is defensible should the county be sued by a property owner.) Alternate benefit plans were proposed to the county and rejected by the county attorney -- and, since this is a county project, we have to abide by that decision.

***I'm worried that by signing my petition I'm signing a blank check for this project.***

Aside from working with a hard proposal from the contractor, the county ordinance governing these units also has a 15% trigger to revisit formation if costs rise unexpectedly. This is really a three-phase process:

- 1) See if enough property owners in the proposed unit support the idea to form it.
- 2) If that happens, form the unit (to make it a county project) and have county staff pursue easements within the budget established (with the overrun factor).
- 3) If that happens, go to construction and the final assessment.

If the easement acquisition costs exceed the 15% trigger, county ordinance requires the property owners be contacted to see if they want to proceed. Since this would happen before construction begins (based on a capped contracted amount), that's really the only variable cost in the process. (A full breakdown of the assessment estimate is elsewhere on this Web site.