

Memorandum



(Public Hearing 09-26-06)

Date: September 12, 2006

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

Agenda Item No. 5(C)

From: George N. Burgess
County Manager

Subject: Ordinance Creating the Enclave at Black Point Marina Community Development District
(Commission District No. 8)

RECOMMENDATION

It is recommended that the Board adopt the attached Ordinance creating the Enclave at Black Point Marina Community Development District (CDD) in unincorporated Miami-Dade County, pursuant to the authority granted by the Miami-Dade County Home Rule Charter for the purposes set forth in Chapter 190 of the Florida Statutes, subject to acceptance of the declaration of restrictive covenants running with the lands within the jurisdiction of the CDD.

BACKGROUND

Quail Hunter Trail, L.L.C., (Quail Hunter Trail), owner of the Enclave at Black Point Marina Development (Enclave at Black Point), has filed an application to create the Enclave at Black Point Marina CDD in connection with said development. Enclave at Black Point is a proposed 50.38-acre residential development lying wholly within unincorporated Miami-Dade County, in the area bounded by SW 104 Avenue and Black Creek Canal (C-1) right-of-way on the east, State Road No. 821 right-of-way (Homestead Extension of Florida's Turnpike) on the west, SW 232 Street on the south and Old Cutler Road (SW 224 Street) on the north. The CDD is designed to provide a financing mechanism for community infrastructure, services and facilities, along with certain ongoing operations and maintenance for Enclave at Black Point. The development plans for the lands within the proposed CDD include construction of a maximum 240 residential units with associated roadway, storm drainage and water and sewer facilities estimated to cost approximately \$7.512 Million. Approval of this CDD does not constitute a development order. A detailed summary of CDD elements, as well as their cost and anticipated lack of fiscal impacts to government agencies, is presented in the attached application submitted by Quail Hunter Trail. In accordance with Florida Statute 190, Quail Hunter Trail has paid a filing fee of \$15,000 to the County.

Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners
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A declaration of restrictive covenants has been submitted consistent with the requirements of Resolution R-413-05 adopted by the Board on April 5, 2005, and as amended by Resolution No. R-883-06, adopted on July 18, 2006, to add language regarding the option to pay capital assessments in full at time of closing. The restrictive covenant provides for notice in the public records of the projected taxes and assessments to be levied by the CDD, individual prior notice to the initial purchaser of a residential lot or unit within the development and provisions for remedial options to initial purchasers whose contract for sale did not include timely notice of the existence and extent of CDD liens and special assessments.

This Board is authorized by the Florida Constitution and the Miami-Dade County Home Rule Charter to establish governmental units such as the CDD within Miami-Dade County and to prescribe such government's jurisdiction and powers.

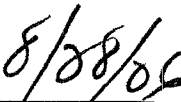
The roads within this development are public and will be maintained by Miami-Dade County. A special taxing district will be created to maintain this development's lakes and open common areas.

FISCAL IMPACT

The creation of the Enclave at Black Point Marina Community Development District will have no fiscal impact to Miami-Dade County other than normal maintenance of the roads, storm drainage system and water and sewer facilities dedicated to the County.



Assistant County Manager



Date



MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: September 26, 2006

FROM: Murray A. Greenberg
County Attorney

SUBJECT: Agenda Item No. 5(C)

Please note any items checked.

- "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- Housekeeping item (no policy decision required)
- No committee review

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 5(C)

09-26-06

ORDINANCE NO _____

ORDINANCE GRANTING PETITION OF QUAIL HUNTER TRAIL, L.L.C., A FLORIDA CORPORATION (“QUAIL HUNTER TRAIL” OR “PETITIONER”) FOR ESTABLISHMENT OF A COMMUNITY DEVELOPMENT DISTRICT; CREATING AND ESTABLISHING ENCLAVE AT BLACK POINT MARINA COMMUNITY DEVELOPMENT DISTRICT (“DISTRICT”); PROVIDING FOR NAME, POWERS AND DUTIES; PROVIDING DESCRIPTION AND BOUNDARIES; PROVIDING INITIAL MEMBERS OF BOARD OF SUPERVISORS; PROVIDING SEVERABILITY, EXCLUSION FROM THE CODE AND AN EFFECTIVE DATE

WHEREAS, the Florida Legislature created and amended Chapter 190, Florida Statutes, to provide an alternative method to finance and manage basic services for community development; and

WHEREAS, Section 1.01(A)(21) of the Miami-Dade County Home Rule Charter grants the Miami-Dade County Board of County Commissioners the authority to exercise all powers and privileges granted to municipalities and counties by the laws of this State; and

WHEREAS, Article VIII, Section 6(1) of the Florida Constitution provides for exclusive County Charter authority to establish all governmental units within Miami-Dade County and to provide for their government and prescribe their jurisdiction and powers; and

WHEREAS, Quail Hunter Trail, L.L.C., a Florida Corporation (“Quail Hunter Trail” or “Petitioner”) has petitioned for the establishment of the Enclave at Black Point Marina Community Development District (the “District”); and

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WHEREAS, a public hearing has been conducted by the Miami-Dade County Board of County Commissioners in accordance with the requirements and procedures of Section 190.005(2)(b), Florida Statutes, and the applicable requirements and procedures of the Miami-Dade County Home Rule Charter and Code; and

WHEREAS, the District will constitute a timely, efficient, effective, responsive and economic way to deliver community development services in the area, thereby providing a solution to the County's planning, management and financing needs for delivery of capital infrastructure therein without overburdening the County and its taxpayers; and

WHEREAS, the Board of County Commissioners finds that the statements contained in the Petition are true and correct; and

WHEREAS, the creation of the District is not inconsistent with any applicable element or portion of the State comprehensive plan or the Miami-Dade County Comprehensive Development Master Plan; and

WHEREAS, the area of land within the District is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developable as one functional interrelated community; and

WHEREAS, the creation of the District is the best alternative available for delivering the community development services and facilities to the area that will be served by the District; and

WHEREAS, the proposed services and facilities to be provided by the District will be compatible with the capacity and uses of existing local and regional community development services and facilities; and

WHEREAS, the area that will be served by the District is amenable to separate special district government; and

WHEREAS, the owner of the property that is to be developed and served by the community development services and facilities to be provided by the District has submitted an executed declaration of restrictive covenants pledging among other things to provide initial purchasers of individual residential lots with notice of liens and assessments applicable to such parcels, with certain remedial rights vesting in the purchasers of such parcels if such notice is not provided in a timely and accurate manner; and

WHEREAS, having made the foregoing findings, after a public hearing, the Miami-Dade County Board of County Commissioners wishes to exercise the powers bestowed upon it by Section 1.01(A)(21) of the Miami-Dade County Home Rule Charter in the manner provided by Chapter 190, Florida Statutes; and

WHEREAS, the Miami-Dade County Board of County Commissioners finds that the District shall have those general and special powers authorized by Sections 190.011 and 190.012, Florida Statutes, and set forth herein, and that it is in the public interest of all of the citizens of Miami-Dade County that the District have such powers,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. The foregoing findings, which are expressly set forth herein, are hereby adopted and made a part hereof.

Section 2. The Petition to establish the Enclave at Black Point Marina Community Development District over the real property described in Exhibit A attached hereto, which was filed by Quail Hunter Trail, L.L.C., a Florida Corporation, on October 5, 2005 and which Petition is on file at the Office of the Clerk of the Board, is hereby granted. A copy of the Petition is attached and incorporated herein (Exhibit B).

Section 3. The external boundaries of the District shall be as depicted on the location map attached hereto and incorporated herein as Exhibit C.

Section 4. The initial members of the Board of Supervisors shall be as follows:

AJ Garcia

Gerry Suarez

Jorge Feria

Jose Milan

Odalys Paez-Cadenas

Section 5. The name of the District shall be the "Enclave at Black Point Marina Community Development District."

Section 6. The Enclave at Black Point Marina Community Development District is created for the purposes set forth in Chapter 190, Florida Statutes, pursuant to the authority granted by Section 1.01(A)(21) of the Miami-Dade County Home Rule Charter.

Section 7. Pursuant to Section 190.005 (2) (d), Florida Statutes, the charter for the Enclave at Black Point Marina Community Development District shall be Sections 190.006 through 190.041, Florida Statutes.

Section 8. The Miami-Dade County Board of County Commissioners hereby grants to the Enclave at Black Point Marina Community Development District all general powers authorized pursuant to Section 190.011, Florida Statutes, and hereby finds that it is in the public interest of all citizens of Miami-Dade County to grant such general powers.

Section 9. The Miami-Dade County Board of County Commissioners hereby grants to the Enclave at Black Point Marina Community Development District the special powers authorized pursuant to Section 190.012 (1), Florida Statutes and Sections 190.012 (2)(a)(d) and (f), (except for

powers regarding waste disposal), Florida Statutes and Section 190.012 (3), Florida Statutes, and hereby finds that it is in the public interest of all citizens of Miami-Dade County to grant such special powers; provided that the District's exercise of power under Section 190.012(1)(b) Florida Statutes, pertaining to water, waste water and reuse water services shall be pursuant to that Declaration of Restrictive Covenants submitted to the Board of County Commissioners in connection with the petition.

Section 10. All bonds issued by the Enclave at Black Point Marina Community Development District pursuant to the powers granted by this ordinance shall be validated pursuant to Chapter 75, Florida Statutes.

Section 11. No bond, debt or other obligation of the Enclave at Black Point Marina Community Development District, nor any default thereon, shall constitute a debt or obligation of Miami-Dade County, except upon the express approval and agreement of the Miami-Dade Board of County Commissioners.

Section 12. Notwithstanding any power granted to the Enclave at Black Point Marina Community Development District pursuant to this Ordinance, neither the District nor any real or personal property or revenue in the district shall, solely by reason of the District's creation and existence, be exempted from any requirement for the payment of any and all rates, fees, charges, permitting fees, impact fees, connection fees, or similar County rates, fees or charges, special taxing districts special assessments which are required by law, ordinance or County rule or regulation to be imposed within or upon any local government within the County.

Section 13. Notwithstanding any power granted to the Enclave at Black Point Marina Community Development District pursuant to this Ordinance, the District may exercise the power

of eminent domain outside the District's existing boundaries only with the prior specific and express approval of the Board of County Commissioners of Miami-Dade County.

Section 14. This Board hereby accepts that Declaration of Restrictive Covenants proffered by the owners of the lands within the jurisdiction of the Enclave at Black Point Marina Community Development District, in connection with the petition submitted by Quail Hunter Trail, L.L.C., and approved herein.

Section 15. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 16. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance shall be excluded from the Code of Miami-Dade County.

Section 17. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

Gerald T. Heffernan

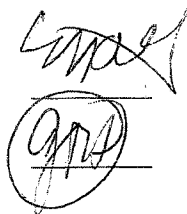
The image shows two handwritten signatures. The top signature is in cursive and appears to be 'L. M. ...'. The bottom signature is also in cursive and appears to be 'GTH', which corresponds to Gerald T. Heffernan. Both signatures are written over horizontal lines.

EXHIBIT A

**ENCLAVE AT BLACK POINT MARINA
COMMUNITY DEVELOPMENT DISTRICT
LEGAL DESCRIPTION**

PARCEL 1:

That Portion of the Southwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 17, Township 56 South, Range 40 East, lying Easterly of the following described Florida Turnpike-right-of-way.

Commence at the Southwest corner of said Section 17; Thence N $89^{\circ}22'47''$ East along the South line of said Section 17, as a basis of bearing of 224.76 feet to the intersection with the Westerly Right-of-way line of S.R. No. 821 (Florida Turnpike) as shown on the Florida State Department of Transportation Right-of-Way map., Section No 87005-2305, said point being the Point of Beginning of the herein described parcel of land; thence North $00^{\circ}48'42''$ West along said West Right-of-Way line for 1332.49 feet to the North line of Southwest $\frac{1}{4}$ of Southwest $\frac{1}{4}$ of said Section 17; thence North $89^{\circ}16'30''$ East along the North line of Southwest $\frac{1}{4}$ of Southwest $\frac{1}{4}$ of said Section 17 for 300 feet to the intersection with the Easterly line of said S.R. No. 821 (Florida's Turnpike), thence South $00^{\circ}48'42''$ East for 1333.04 feet to the South line of Southwest $\frac{1}{4}$ of Southwest $\frac{1}{4}$ of said Section 17; thence South $89^{\circ}22'47''$ West for 300.00 feet to the Point of Beginning.

PARCEL 2:

A portion of Tract 3 of Amended Plat of East Dixie Park as recorded in Plat Book 31, at Page 61, of the Public Records of Miami Dade County, Florida, and a portion of the Right-of-way of S.W. 224th Street Lying North of and adjacent to said Tract 3 (said Right-of-way closed by Resolution No.7275), and a portion of the West $\frac{1}{2}$ of Section 17, Township 56 South Range 40 East, Dade County, Florida all being particularly described as follows:

Commencing at the Southwest corner of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 17, Township 56 South, Range 40 East, Dade County, Florida; thence run N $89^{\circ}10'32''$ E along the South line of the said NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 17 for a distance of 531.64 feet a point of intersection with the East Right-of way line of the Homestead Extension of Florida's Turnpike (State Road No. 821) thence run N $00^{\circ}48'42''$ W along said East Right-of-way line of the Homestead Extension of Florida's Turnpike (State Road No. 821) for a distance of 50.00 feet to the Point of Beginning of the tract of land herein described, thence from the above established Point of Beginning run the following courses and distances along the said East Right-of-way line of the Homestead Extension of Florida's Turnpike (State Road No. 821), N $00^{\circ}48'42''$ W for 497.94 feet; N $01^{\circ}05'51''$ E for 300.17 feet; N $00^{\circ}48'42''$ W for 529.71 feet to a point of intersection with the South Right-of-way line of Old Cutler Road said point lying on a circular curve concave to the North and

bearing S08°46'03"W from the center of said curve; thence departing the said East Right-of-way line Homestead Extension of Florida's Turnpike (State Road No. 821) run the following courses and distances along the said South Right-of-way line of Old Cutler Road; along said circular curve to the left having for its elements radius of 2914.93 feet and central angle of 10°41'55" for an arc distance of 544.29 feet to the point of tangency of said curve N88°04'08"E for 380.06 feet to a point of intersection with the Westerly Right-of-way line of the Central and Southern Florida Flood Control District Canal C-1 (Black Creek); thence departing the said South Right-of-way line of Old Cutler Road run the following courses and distances along the said Westerly Right-of-way line of the Central and Southern Florida Flood Control District Canal C-1 (Black Creek); S02°01'55"E for 5.26 feet; S07°34'00"W for 727.16 Feet to the beginning of a circular curve to the left; thence to the left along said curve having for its elements a radius of 760.00 feet and central angle of 45°43'36" for an arc distance of 606.54 feet to a point of intersection with a line that is 50 feet North of and parallel to the South line of the North ½ of the SW ¼ of said Section 17 said point bearing S51°50'42"W from the center of said curve; thence departing the Westerly Right-of-way line of the Central and Southern Florida Flood Control District Canal C-1 (Black Creek); run S89°16'31"W along a line that is 50 feet North of and parallel to the said South line of the North ½ of the SW ¼ of said Section 17 for a distance of 973.93 feet to the Point of Beginning.

Containing 2,194,318.53 Square Feet and/or 50.38 Acres more or less.