

NASSAU COUNTY ORDINANCE NO. 2007-21

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA PERTAINING TO THE SOUTH AMELIA ISLAND SHORE STABILIZATION MUNICIPAL SERVICES BENEFIT UNIT; AMENDING ORDINANCE 94-1, AS AMENDED; PROVIDING FOR THE IMPOSITION OF MAINTENANCE ASSESSMENTS TO FUND OPERATION AND MAINTENANCE COSTS; PROVIDING THAT NEW CAPITAL ASSESSMENTS SHALL NOT BE DETERMINED, LEVIED OR IMPOSED ON ANY REAL PROPERTY LOCATED WITHIN THE MSBU UNLESS AND UNTIL A MAJORITY OF THE PROPERTY OWNERS IN THE MSBU PETITIONS THE BOARD OF COUNTY COMMISSIONERS TO DO SO; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, The Board of County Commissioners has enacted Ordinance No. 93-14, as amended (the "Ordinance"), providing for the imposition of special assessments on real property located in the South Amelia Island Shore Stabilization Municipal Service Benefit Unit (the "MSBU") to fund the costs of beach renourishment projects benefiting properties within the MSBU; and

WHEREAS, pursuant to the Ordinance, the Board of County Commissioners and the owners of property located within the MSBU expressed the desire that new or additional special assessments levied and imposed on property within the MSBU shall not be imposed unless and until the Board of County Commissioners has been requested by the owners or property in the MSBU to levy and impose such assessments; and

WHEREAS, special assessments were imposed at the request of the property owners within the MSBU pursuant to Resolution No. 94-32 and Resolution No. 2002-058 to finance beach renourishment capital projects within the MSBU (the "Capital Projects"); and

WHEREAS, the permits issued in connection with the Capital Projects mandate certain requirements for continuing monitoring and maintenance of the Capital Projects; and

WHEREAS, such ongoing monitoring and maintenance is associated with the Capital Projects, therefore these maintenance services provide a special benefit to properties within the MSBU and the costs of such services are eligible for funding through the imposition of maintenance special assessments within the MSBU; and

WHEREAS, the Board of County Commissioners has enacted Ordinance No. 2000-37 (the "Capital Project and Maintenance Assessment Ordinance") authorizing the creation of assessment areas within the County for the imposition of capital assessments to fund capital costs and maintenance assessments to fund operation and maintenance costs for capital projects; and

WHEREAS, the South Amelia Island Shore Stabilization Association, Inc. (“SAISSA”) has proposed the imposition of maintenance assessments within the MSBU to fund the ongoing monitoring and maintenance costs of the Capital Projects pursuant to the Capital Project and Maintenance Assessment Ordinance (the “Maintenance Assessments”); and

WHEREAS, provided that the Maintenance Assessments are to be imposed pursuant to the Capital Project and Maintenance Assessment Ordinance to fund costs associated with the Capital Projects, the Board hereby finds that the imposition of Maintenance Assessments shall not require a petition of the property owners within the MSBU.

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

SECTION 1. Section 2 of the Ordinance is hereby amended to read as follows:

SECTION 2 – PRIOR AUTHORIZATION; PETITION

Prior to the implementation of any undertakings, projects, improvements and services by the MSBU and prior to establishing, determining, levying and imposing any special assessment on any real property to finance such undertakings, projects, improvements and services, the Board of County Commissioners of Nassau County (the “BOCC”) shall ~~by resolution approve and authorize the proposed undertaking, projects, improvements, and services and~~ establish a system of special assessments pursuant to Ordinance No. 2000-37 (the “Capital Project and Maintenance Assessment Ordinance”). The BOCC does hereby recognize and acknowledge that a majority of the owners of real property located in the MSBU have by return of a petition form to the South Amelia Island Shore Stabilization Association, Inc. (the “SAISSA”) indicated their support for a beach restoration program and the levy of special assessments on real property in the MSBU as recommended by SAISSA and asked the BOCC to implement such a program. The BOCC further recognizes and acknowledges that no new or additional assessments to fund capital costs, as defined in the Capital Project and Maintenance Assessment Ordinance (“Capital Assessments”) ~~other than those authorized by Resolution No. 94-32, adopted on November 22, 1993,~~ shall be approved, levied or imposed unless and until the BOCC has receive a petition or other form of request from a majority of the owners of real property located in the MSBU requesting such assessments be levied and imposed. The BOCC further recognizes and acknowledges that the beach renourishment capital projects funded through the imposition of capital assessments require continuing monitoring and maintenance. As a result, the BOCC finds that maintenance assessments imposed pursuant to the Capital Project and Maintenance Assessment Ordinance to fund such ongoing monitoring and maintenance costs (“Maintenance Assessments”) shall not require a petition or other form of request from a majority of the owners of real property located in the MSBU prior to levy and imposition.

SECTION 2. Subsection (b) of Section 6 of the Ordinance is hereby amended to read as

follows:

(b) The BOCC shall establish special assessments on all real property located within the MSBU to be specially benefited by the projects, undertakings, improvements and operations of the MSBU pursuant to the Capital Project and Maintenance Assessment Ordinance, provided that no new or additional Capital Assessments shall be approved, levied or imposed unless and until the BOCC has received a petition or other form of request from a majority of the owners of real property located in the MSBU requesting such assessments be levied and imposed. Any Maintenance Assessments imposed pursuant to the Capital Project and Maintenance Assessment Ordinance shall not require a petition or other form of request from a majority of the owners of real property located in the MSBU prior to levy and imposition. If multiple year variable special assessments are to be used to finance the undertakings, projects and operations of the MSBU, then the amount of the assessments shall be established from year to year ~~by resolution of the BOCC~~ pursuant to the Capital Project and Maintenance Assessment Ordinance. The special assessments may be assessed, levied, collected and remitted at the time and in the same manner as ad valorem taxes as provided by Florida law and pursuant to the Capital Project and Maintenance Assessment Ordinance or in such other manner as may be authorized and directed by the BOCC. The resolution establishing the special assessments, including the unit of measurement or rates thereof, may provide for different assessments or rates of assessments for various classes of real property based upon the benefit received by each class of real property from the undertakings, projects, improvements and operations of the MSBU.

SECTION 3. Subsections (a) and (b) of Section 12 of the Ordinance are hereby amended to read as follows:

(a) The County may recover the costs of projects, ongoing operations and maintenance costs and other undertakings of the MSBU or finance the costs of such projects, operations and maintenance costs and undertakings by levying and collecting special assessments on specially benefited real property as provided herein or pursuant to the Capital Project and Maintenance Assessment Ordinance. Special assessments may be levied only on benefited real property at a rate of assessment based on the special benefit accruing to such property as a result of or from such projects, operations and maintenance costs or other undertakings of the MSBU, provided that no new or additional Capital Assessments ~~other than those authorized by Resolution No. 94-32, adopted on November 22, 1993,~~ shall be approved, levied or imposed unless and until the BOCC has received a petition or other form of request from a majority of the owners of real property located in the MSBU requesting such assessments be levied and imposed. Any Maintenance Assessments imposed pursuant to the Capital Project and Maintenance Assessment Ordinance shall not require a petition or other form of request from a majority of the owners of real property located in the MSBU prior to levy and imposition.

(b) The BOCC shall determine if the procedure for the levy and collection

of special assessments for the MSBU is (1) the uniform method for the levy, collection and enforcement of non-ad valorem assessments set forth in Section 197.3632, Florida Statutes, pursuant to the Capital Project and Maintenance Assessment Ordinance, (2) any alternative method of collection authorized pursuant to the Capital Project and Maintenance Assessment Ordinance, or (3) the procedure set forth in this ordinance. Nothing herein is intended to prevent or prohibit the BOCC from using the uniform method as provided in Section 197.3632, Florida Statutes, pursuant to the Capital Project and Maintenance Assessment Ordinance or any alternative method of collection authorized pursuant to the Capital Project and Maintenance Assessment Ordinance, in any year. The procedures provided in this Section are deemed to provide an additional and alternative method for the imposition of special assessments to the methods authorized in the Capital Project and Maintenance Assessment Ordinance and shall not be regarded as in derogation of any procedures or requirements of such ordinance. notwithstanding the fact that the procedure provided in this ordinance has been utilized for the levy and collection of special assessments.


SECTION 4. EFFECTIVE DATE. In accordance with Section 125.66(2), Florida Statutes, a certified copy of this Ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners, and this Ordinance shall take effect upon filing with the Department of State.


DULY ENACTED in regular session, this 13th day of August, 2007.

BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA


JIM B. HIGGINBOTHAM
Its: Chairman

Attest as to Chairman's signature:


JOHN A. CRAWFORD
Its: Ex-Officio Clerk

REVIEWED BY GENE KNAGA
DEPUTY COMPTROLLER
 DATE 8/13/07

APPROVED AS TO FORM BY THE
NASSAU COUNTY ATTORNEY:


DAVID A. HALLMAN