

ORDINANCE NO. 2004-41

AN ORDINANCE ESTABLISHING THE HERON ISLES COMMUNITY DEVELOPMENT DISTRICT PURSUANT TO CHAPTER 190, FLORIDA STATUTES; NAMING THE DISTRICT; DESCRIBING THE EXTERNAL BOUNDARIES OF THE DISTRICT; DESCRIBING THE FUNCTIONS AND POWERS OF THE DISTRICT; DESIGNATING PERSONS TO SERVE AS THE INITIAL MEMBERS OF THE DISTRICT'S BOARD OF SUPERVISORS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Heron Isles Joint Venture, LLP., (hereafter "Petitioner"), having obtained written consent to the establishment of the District by the owner of one hundred percent (100%) of the real property to be included in the District, petitioned the Board of County Commissioners of Nassau County (the "County") to adopt an ordinance establishing the Heron Isles Community Development District (the "District") pursuant to Chapter 190, Florida Statutes (2003); and

WHEREAS, Petitioner is a limited liability partnership authorized to conduct business in the State of Florida and whose address is 2955 Hartley Road, Suite 108, Jacksonville, Florida 32257; and

WHEREAS, all interested persons and affected units of general-purpose local government were afforded an opportunity to present oral and written comments on the Petition at a duly noticed public hearing conducted by the County on August 23, 2004; and

WHEREAS, upon consideration of the record established at that hearing, the County determined that the statements within the Petition were true and correct, that the establishment of the District is not inconsistent with any applicable element or portion of the state comprehensive plan or the local government comprehensive plan, that the land within the District is of sufficient size, is sufficiently compact, and sufficiently contiguous to be developable as a functionally interrelated community, that the District is the best alternative available for delivering community development services and facilities to the area served by the District, that the services and facilities of the District will not be incompatible with the capacity and uses of existing local and regional community development services and facilities, and that the area to be served by the District is amenable to separate special-district governance; and

WHEREAS, establishment of the District will constitute a timely, efficient, effective, responsive and economic way to deliver community development services in the area described in the petition.

NOW THEREFORE BE IT ORDAINED by the Board of County Commissioners of Nassau County, Florida:

SECTION 1. AUTHORITY.

This ordinance is adopted in compliance with and pursuant to the Uniform Community Development District Act of 1980, Chapter 190, Florida Statutes as amended (the "Act").

SECTION 2. DISTRICT NAME.

There is hereby created a community development district situated entirely within unincorporated Nassau County, Florida, which District shall be known as the "Heron Isles Community Development District."

SECTION 3. EXTERNAL BOUNDARIES OF THE DISTRICT.

Encompassing approximately 358 acres, the external boundaries of the District are described in Exhibit A attached hereto.

SECTION 4. FUNCTION AND POWERS.

Pursuant to general law, the exclusive charter for each independent community development district established under Chapter 190, Florida Statutes, is the uniform community development district charter (the "Uniform Charter") as set forth in ss. 190.006 through 190.041, Florida Statutes. This Uniform Charter is not subject to modification by the local general purpose government under which it is established. The Uniform Charter grants certain general and special powers among which include the following:

(A) General Powers - The District and the District's Board of Supervisors are authorized to exercise all powers granted pursuant to the Uniform Charter of the Act as amended through the date hereof and as such may be amended from time to time. Said powers include, but are not limited to the power:

(1) To sue and be sued in the name of the district; to adopt and use a seal and authorize the use of a facsimile thereof; to acquire, by purchase, gift, devise, or otherwise, and to dispose of, real and personal property, or any estate therein, and to make and execute contracts and other instruments necessary or convenient to the exercise of its powers.

(2) To apply for coverage of its employees under the state retirement system in the same manner as if such employees were state employees, subject to necessary action by the district to pay employer contributions into the state retirement fund.

(3) To contract for the services of consultants to perform planning, engineering, legal, or other appropriate services of a professional nature. Such contracts shall be subject to public bidding or competitive negotiation requirements as set for in s. 190.033, Florida Statutes.

(4) To borrow money and accept gifts; to apply for and use grants or loans of money or other property from the United States, the state, a unit of local government, or any person for any district purposes and enter into agreements required in connection therewith; and to hold, use, and dispose of such moneys or property for any district purposes in accordance with the terms of the gift, grant, loan, or agreement relating thereto.

(5) To adopt rules and orders pursuant to provisions of Chapter 120, Florida Statutes, prescribing the powers, duties, and functions of the officers of the district; the conduct of the business of the district; the maintenance of records; and form of certificates evidencing tax liens and all other documents and records of the district. The board may also adopt administrative rules with respect to any of the projects of the district and define the area to be included therein. The board may also adopt resolutions which may be necessary for the conduct of district business.

(6) To maintain an office at such place or places as it may designate within the county in which the district is located or within the boundaries of a development of regional impact or a Florida Quality Development, or a combination of a development of regional impact and a Florida Quality Development, which includes the district, which office must be reasonably accessible to the landowners. Meetings pursuant to s. 189.417(3), Florida Statutes of a district within the boundaries of a development of regional impact of Florida Quality Development, or a combination of a development of regional impact and a Florida Quality Development, may be held at such office.

(7)(a) To hold, control, and acquire by donation, purchase, or condemnation, or dispose of, any public easements, dedications to public use, platted reservations for public purposes, or any reservations for those purposes authorized by this act and to make use of such easements, dedications, or reservations for any of the purposes authorized by this act.

(b) When real property in the district is owned by a governmental entity and subject to a ground lease as described in s. 190.003(13), Florida Statutes, to collect ground rent from landowners pursuant to a contract with such governmental entity and to contract with the county tax collector for collection of such ground rent using the procedures authorized in s. 197.3631, Florida Statutes, other than the procedures contained in s. 197.3632, Florida Statutes.

(8) To lease as lessor or lessee to or from any person, firm, corporation, association, or body, public or private, any projects of the type that the

district is authorized to undertake and facilities or property of any nature for the use of the district to carry out any of the purposes authorized by this act.

(9) To borrow money and issue bonds, certificates, warrants, notes, or other evidence of indebtedness as hereinafter provided; to levy such tax and special assessments as may be authorized; and to charge, collect, and enforce fees and other user charges.

(10) To raise, by user charges or fees authorized by resolution of the board, amounts of money which are necessary for the conduct of the district activities and services and to enforce their receipt and collection in the manner prescribed by resolution and not inconsistent with law.

(11) To exercise within the district, or beyond the district with prior approval by resolution of the governing body of the county if the taking will occur in an unincorporated area or with prior approval by resolution of the governing body of the municipality if the taking will occur within a municipality, the right and power of eminent domain, pursuant to the provisions of Chapters 73 and 74, Florida Statutes, over any property within the state, except municipal, county, state and federal property, for the uses and purposes of the district relating solely to water, sewer, district roads, and water management, specifically including, without limitation, the power for the taking of easements for the drainage of the land of one person over and through the land of another.

(12) To cooperate with, or contract with, other governmental agencies as may be necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized herein or by the Act.

(13) To assess and impose upon lands in the district ad valorem taxes as provided by the Act.

(14) To determine, order, levy, impose, collect, and enforce special assessments pursuant to the act and Chapter 170, Florida Statutes. Such special assessments may, in the discretion of the district, be collected and enforced pursuant to the provisions of ss. 197.3631, 197.3632, and 197.3635, or Chapter 170, Florida Statutes.

(15) To exercise all of the powers necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized by the Act.

(16) To exercise such special powers as may be authorized by this Section and the Act.

(B). Special Powers – The District and the District’s Board of Supervisors are authorized to exercise all special powers granted pursuant to the Uniform Charter of the Act as amended through the date hereof and as such may be amended from time to time. Said powers include, but are not limited to the power:

(1) To finance, fund, plan, establish, acquire, construct, enlarge or extend, equip, operate, and maintain systems, facilities, and basic infrastructures for the following:

(a) Water management and control for the lands within the district and to connect some or any of such facilities with roads and bridges.

(b) Water supply, sewer and wastewater management, reclamation, and reuse or any combination thereof, and to construct and operate connecting intercepting or outlet sewers and sewer mains and pipes and water mains, conduits, or pipelines in, along, and under any street, alley, highway, or other public place or ways, and to dispose of any effluent, residue, or other byproducts of such system or sewer system.

(c) Bridges or culverts that may be needed across any drain, ditch, canal, floodway, holding basin.

(C) Additional Powers - Consent is hereby given to the District and the District's Board of Supervisors to finance, fund, plan, establish, acquire, construct, reconstruct, enlarge or extend, equip, operate, and maintain systems and facilities for:

(1) Parks and facilities for indoor and outdoor recreational, cultural, and educational uses and as authorized and described by Section 190.012(2)(a), Florida Statutes.

(2) Fire prevention and control, including fire stations, water mains and plugs, fire trucks, and other vehicles and equipment as authorized and described by Section 190.012(2)(b), Florida Statutes.

SECTION 5. BOARD OF SUPERVISORS.

The five persons designated to serve as initial members of the District's Board of Supervisors are as follows: Gregory E. Matovina, Donald K. Borstein, William R. Howell II, Michael Cassis and Alan B. Almand. All of the above-listed persons are residents of the state of Florida and citizens of the United States of America.

SECTION 6. SEVERABILITY.

If any provision of this ordinance is held to be illegal or invalid, the other provisions shall remain in full force and effect.

SECTION 7. EFFECTIVE DATE.

This Ordinance shall take effect pursuant to general law.

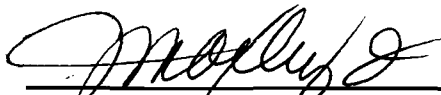
DONE AND ADOPTED in regular session this 23th day of August, 2004

BOARD OF COUNTY COMMISSIONERS
OF NASSAU COUNTY, FLORIDA



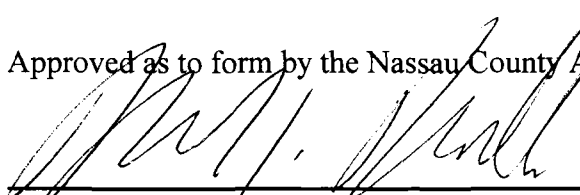
Floyd L. Vanzant
Its: Chairman

Attest:



J.M. "CHIP" OXLEY, JR.
Its: Ex -officio Clerk

Approved as to form by the Nassau County Attorney.



MICHAEL S. MULLIN, ESQUIRE
County Attorney

HERON ISLES

Boundary Description

Description

Parcel 1-A

A portion of Sections 37 and 44, Township 3 North, Range 28 East, Nassau County, Florida, and being more particularly described as follows:

For a Point of Reference commence at the intersection of the Northerly right of way line of Seaboard Airline Railroad (a 120 foot right of way as currently established) with the Easterly right of way line of Chester Road (a 100 foot right of way as currently established at this location); thence North 07 degrees 37 minutes 41 seconds East, along said Easterly right of way line, 105.34 feet; thence North 64 degrees 02 minutes 19 seconds West, 3.38 feet; thence North 08 degrees 24 minutes 50 seconds East along a line 14 feet East of and parallel with the Easterly right of way line of Chester Road (a 66 foot right of way as currently established at this location), 773.65 feet; thence North 07 degrees 26 minutes 55 seconds East, continuing parallel with said Easterly right of way line, 1201.59 feet to the Point of Beginning.

Thence continue North 07 degrees 26 minutes 55 seconds East, along said parallel line, 2647.56 feet; thence South 52 degrees 04 minutes 15 seconds East, 2448.70 feet to the Northwest corner of Section 45; thence South 02 degrees 28 minutes 46 seconds East, along a line dividing aforementioned Sections 37 and 45, 1929.27 feet; thence South 54 degrees 09 minutes 49 seconds West, 608.78 feet; thence South 75 degrees 15 minutes 37 seconds West, 251.50 feet; thence North 41 degrees 39 minutes 40 seconds West, 1423.15 feet; thence North 04 degrees 13 minutes 09 seconds East, 243.36 feet; thence south 80 degrees 41 minutes 58 seconds West, 125.14 feet; thence South 73 degrees 30 minutes 18 seconds West, 60.61 feet; thence South 82 degrees 40 minutes 35 seconds West, 131.25 feet; thence South 19 degrees 31 minutes 16 seconds East, 69.78 feet; thence South 28 degrees 48 minutes 58 seconds West, 107.70 feet; thence North 58 degrees 40 minutes 46 seconds West, 220.67 feet; thence North 82 degrees 33 minutes 05 seconds West, 165.80 feet to the Point of Beginning.

Parcel 1-C

A portion of Section 37, Township 3 North and a portion of Section 25, Township 2 North, Range 28 East, Nassau County, Florida, and being more particularly described as follows:

Beginning at the intersection of the Northerly right of way line of Seaboard Airline Railroad (a 120 foot right of way as currently established) with the Easterly right of way line of Chester Road (a 100 foot right of way as currently established at this location); thence North 07 degrees 37 minutes 41 seconds East, along said Easterly right of way line, 84.27 feet; thence South 64 degrees 03 minutes 23 seconds East, along a line 80 feet North of and parallel with the aforementioned Northerly railroad right of way line, 2889.20 feet; thence South 01 degree 52 minutes 45 seconds East, 90.46 feet to the Northerly railroad right of way line; thence North 64 degrees 03 minutes 23 seconds West, along said Northerly right of way line, 2904.94 feet to the Point of Beginning.

Parcel 1-D

A portion of Sections 37 and 44, Township 3 North, Range 28 East, Nassau County, Florida, and being more particularly described as follows:

For a Point of Reference commence at the intersection of the Northerly right of way line of Seaboard Airline Railroad (a 120 foot right of way as currently established) with the Easterly right of way line of Chester Road (a 100 foot right of way as currently established at this location); thence North 07 degrees 37 minutes 41 seconds East, along said Easterly right of way line, 105.34 feet; thence North 64 degrees 02 minutes 19 seconds West, 3.38 feet to the Point of Beginning.

From the Point of Beginning thus described thence North 64 degrees 02 minutes 19 seconds West, 14.68 feet;

thence North 08 degrees 24 minutes 50 seconds East, continuing along the Easterly right of way of Chester Road (said right of way being 66 feet wide at this point), 769.10 feet; thence North 07 degrees 26 minutes 55 seconds East, 3857.28 feet; thence South 52 degrees 04 minutes 15 seconds East, departing last said right of way, 16.25 feet; thence South 07 degrees 26 minutes 55 seconds West, along a line 14 feet East of and parallel with the aforementioned Easterly right of way, 3849.15 feet; thence South 08 degrees 24 minutes 50 seconds West, continuing parallel to said Easterly right of way, 773.65 feet to the Point of Beginning.

Description

Parcel 1-B

A portion of Sections 37 and 44, Township 3 North and a portion of Section 25, Township 2 North, Range 28 East, Nassau County, Florida, and being more particularly described as follows:

For a Point of Reference commence at the intersection of the Northerly right of way line of Seaboard Airline Railroad (a 120 foot right of way as currently established) with the Easterly right of way line of Chester Road (a 100 foot right of way as currently established at this location); thence North 07 degrees 37 minutes 41 seconds East, along said Easterly right of way line, 84.27 feet to the Point of Beginning.

Thence continue North 07 degrees 37 minutes 41 seconds East along said Easterly right of way line, 21.07 feet; thence North 64 degrees 02 minutes 19 seconds West, 3.38 feet; thence North 08 degrees 24 minutes 50 seconds East, along a line 14 feet East of and parallel with the Easterly right of way line of Chester Road (a 66 foot right of way as currently established at this location), 773.65 feet; thence North 07 degrees 26 minutes 55 seconds East, continuing parallel with said Easterly right of way line, 1201.59 feet; thence South 82 degrees 33 minutes 05 seconds East, 165.80 feet; thence South 58 degrees 40 minutes 46 seconds East, 220.67 feet; thence North 28 degrees 48 minutes 58 seconds East, 107.70 feet; thence North 19 degrees 31 minutes 16 seconds West, 69.78 feet; thence North 82 degrees 40 minutes 35 seconds East, 131.25 feet; thence North 73 degrees 30 minutes 18 seconds East, 60.61 feet; thence North 80 degrees 41 minutes 58 seconds East, 125.14 feet; thence South 04 degrees 13 minutes 09 seconds West, 243.36 feet; thence South 41 degrees 39 minutes 40 seconds East, 1423.15 feet; thence North 75 degrees 15 minutes 37 seconds East, 251.50 feet; thence North 54 degrees 09 minutes 49 seconds East, 608.78 feet to a line dividing said Section 37 and Section 45; thence South 02 degrees 28 minutes 46 seconds East, along last said line 1399.64 feet to the Southwest corner of said Section 45; thence North 87 degrees 55 minutes 55 seconds West, 123.65 feet; thence South 01 degree 52 minutes 45 seconds East, 1042.38 feet; thence North 64 degrees 03 minutes 23 seconds West, along a line 80 feet North of and parallel with the Northerly right of way line of aforementioned Seaboard Airline Railroad right of way, 2889.20 feet to the Point of Beginning.