

Memorandum

MIAMI-DADE
COUNTY


(Public Hearing 11-15-05)

Date: October 18, 2005

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

Agenda Item No. 5(C)

From: George M. Burgess
County Manager



Subject: Ordinance Creating the
Baywinds
Community Development District

RECOMMENDATION

It is recommended that the Board adopt the attached Ordinance creating the Baywinds Community Development District (CDD) in the City of Homestead, 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. The City of Homestead has approved the creation of the Baywinds CDD by Resolution No. R-2004-08-101.

BACKGROUND

Baywinds Land Trust, a Florida Joint Venture, owner of the Baywinds development, has filed an application to create the Baywinds CDD in connection with said development. Baywinds is a proposed 182.67 acre residential development lying wholly within the City of Homestead, in an area bounded by SW 320 Street (Mowry Drive) and Canal C-103 Right-of-Way on the north, SW 328 Street (N. Canal Drive) on the south, SW 147 Avenue on the west and SW 142 Avenue on the east. The CDD is designed to provide a financing mechanism for community infrastructure, facilities, and services, along with certain ongoing operations and maintenance for the Baywinds development. The development's plans for the lands within the proposed CDD include construction of 1,123 residential units, with associated roadway, earthwork, storm drainage and water and sewer facilities estimated to cost approximately \$15.225 million. 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 Baywinds Land Trust, a Florida Joint Venture. In accordance with Florida Statute 190, the petitioner has paid a filing fee of \$15,000 to the County.


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. 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.

This development includes private roads that are to be maintained by Homeowner Associations or the CDD. With the City's approval, a special taxing district may be created to maintain this development's infrastructure such as private roadways, private area storm drainage, and landscape should the CDD be dissolved or fail to fulfill its maintenance obligations. The special taxing district will remain dormant until such time as the City of Homestead requests Miami-Dade County to activate it.

FISCAL IMPACT

The creation of the Baywinds Community Development District will have no fiscal impact on Miami-Dade County.



Assistant County Manager






MEMORANDUM

(Revised)

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

DATE: November 15, 2005

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)

11-15-05

ORDINANCE NO. _____

ORDINANCE GRANTING PETITION OF BAYWINDS LAND TRUST, A FLORIDA JOINT VENTURE, ("BAYWINDS LAND TRUST" OR "PETITIONER") FOR ESTABLISHMENT OF A COMMUNITY DEVELOPMENT DISTRICT; CREATING AND ESTABLISHING BAYWINDS COMMUNITY DEVELOPMENT DISTRICT ("DISTRICT"); PROVIDING FOR NAME, POWERS AND DUTIES; PROVIDING DESCRIPTION AND BOUNDARIES; PROVIDING INITIAL MEMBERS OF BOARD OF SUPERVISORS; ACCEPTING PROFFERED DECLARATION OF RESTRICTIVE COVENANTS; 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, Baywinds Land Trust, a Florida Joint Venture, (“Baywinds Land Trust” or “Petitioner”) has petitioned for the establishment of the Baywinds Community Development District (the “District”); and

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 facilities and 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 facilities and services to the area that will be served by the District; and

WHEREAS, the proposed facilities and services to be provided by the District will be compatible with the capacity and uses of existing local and regional community development facilities and services; 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 facilities and services 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 units with notice of liens and assessments applicable to such units, with certain remedial rights vesting in the purchasers of such units 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, because the proposed District is located wholly within the municipal boundaries of the City of Homestead, the City is in a position to be well informed regarding the merits of this District; and

WHEREAS, the City of Homestead has consented to the creation of the District within the municipal boundaries subject to certain conditions that the petitioner shall have to satisfy; and the Board of County Commissioners desires to establish the District; and

WHEREAS, based on the written consent of the City of Homestead, 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 Baywinds Community Development District over the real property described in Exhibit A attached hereto, which was filed by Baywinds Land Trust, a Florida Joint Venture, on July 1, 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 as 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:

Grez McPherson
Mercedes Henderson
Fernando Martinez
Martha Fernandez
Gene Garcia

Section 5. The name of the District shall be the "Baywinds Community Development District."

Section 6. The Baywinds 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 Baywinds 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 Baywinds 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 Baywinds 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 Baywinds 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 Baywinds 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 Baywinds 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 Baywinds 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 as proffered by the owners of the lands within the jurisdiction of the Baywinds Community Development District, in connection with the petition submitted by Baywinds Land Trust, a Florida Joint Venture, 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.

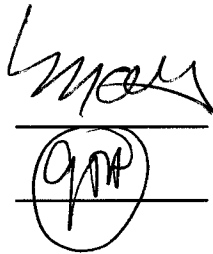
Section 17. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

Gerald Heffernan



The image shows two handwritten signatures. The top signature is written above a horizontal line and appears to be 'L. M. ...'. The bottom signature is written inside a circle, also above a horizontal line, and appears to be 'G. H. ...'.

Exhibit A

LEGAL DESCRIPTION

BAYWINDS
COMMUNITY DEVELOPMENT DISTRICT
LEGAL DESCRIPTION

The South 50 feet of the West ¼ of the NW ¼ and that portion of the East ¼ of the NW ¼ lying South of the South Florida Water Management District Canal C-103, and the SW ¼, less the South 35 feet for the Right-of-Way for North Canal, All being in Section 15, Township 57 South, Range 39 East, Miami-Dade County, less the West 30 feet for S.W. 147th Avenue and less the East 30 feet for S.W. 142nd Avenue, Also described as portions of Tracts 15 thru 28 of Block 2 and Tracts 1 thru 28 of Block 3 of MIAMI LAND AND DEVELOPMENT COMPANY subdivision of said Section 15, according to the plat thereof, recorded in Plat Book 5, at Page 10, of the Public Records of Miami-Dade County, Florida, All being more particularly described as follows:

Begin at a point 35 feet North of the South line and 30 feet West of the East line of the said SW ¼ of Section 15, said point lying on the North Right-of-Way line of North Canal and on the West Right-of-Way line of S.W. 142nd Avenue; thence S89°34'09"W along a line that is 35 feet North of, and parallel with, the said South line of the SW ¼ of Section 15 and along the said North Right-of-Way line of North Canal, for 2,619.09 feet to its intersection with the East Right-of-Way line of S.W. 147th Avenue, said point lying 30 feet East of, as measured at right angles to, the West line of the said SW ¼ of Section 15; thence N00°19'37"W along the said East Right-of-Way line of S.W. 147th Avenue and along a line that is 30 feet East of, and parallel with, the said West line of the SW ¼ of Section 15 for 2,628.68 feet to a point that is 30 feet East of, as measured at right angles to, the NW ¼ of Section 15; thence N00°16'00"W continuing along the East Right-of-Way line of S.W. 147th Avenue and along a line that is 30 feet East of, and parallel with, the said NW ¼ of Section 15 for 50.08 feet to a point that is 50.00 feet North of, as measured at right angles to, the South line of the said NW ¼ of Section 15; thence N89°33'33"E along a line that is 50.00 feet North of, and parallel with, the said South line of the N.W. ¼ of Section 15 for 1,980.68 feet to a point on the West line of the East ¼ of the said NW ¼ of Section 15; thence N00°25'09"W along the said West line of the said East ¼ of the NW ¼ of Section 15 for 1,501.51 feet to a point on the South Right-of-Way line of the said Canal C-103; thence run the following courses and distances along the South Right-of-Way line of said Canal C-103: N89°22'02"E for 274.54 feet to a point of curvature of a circular curve to the right; thence to the right along said curve, having for its elements a radius of 315.00 feet and a central angle of 30°00'58" for an arc distance of 165.02 feet to the point of tangency; thence S60°37'00"E for 238.28 feet to a point on the said West Right-of-Way line of S.W. 142nd Avenue, said point lying 30 feet West of, as measured at right angles to, the East line of the said NW ¼ of Section 15; thence departing the said South Right-of-Way line of Canal C-103 run S00°28'11"E along the said West Right-of-Way line of S.W. 142nd Avenue and along a line that is 30 feet West of, and parallel with, the said East line of the NW ¼ of Section 15 for 1,392.17 feet to a point that is 30 feet West of, as measured at right angles to, the said East line of the SW ¼ of Section 15; thence S00°17'00"E continuing along the said West Right-of-Way line of S.W. 142nd Avenue and along a line that is 30 feet West of, and parallel with, the said East line of the SW ¼ of Section 15 for 2,629.26 feet to the Point of Beginning.

NOTES:

1. The above described parcel contains 7,957,022 square feet (182.6681 acres), more or less.
2. The bearings are based on an assumed direction of S89°34'09"W along the South line of the SW ¼ of Section 15, Township 57 South, Range 39 East, Miami-Dade County, Florida.

Prepared for:
Baywinds Joint Venture
Job No. 04-7478
February 21st, 2005

Prepared by:
Jack Mueller & Associates, Inc.
Consulting Engineers and Land Surveyors
Certificate of Authorization No. LB0064
9450 Sunset Drive ~ Suite 200
Miami, Florida 33173-5428
Phone: 305-279-5555

EXHIBIT "A"

EASTWIND

Parcel 1:

Lot 24 and the East 1/2 of Lots 27 and 28 in Block 2 in Section 15, Township 57 South, Range 39 East of MIAMI LAND AND DEVELOPMENT COMPANY'S SUBDIVISION, according to the plat thereof, as recorded in Plat Book 5, at Page 10, of the Public Records of Miami-Dade County, Florida, subject to a right-of-way dedication across the South 50 feet of said Lot 24, the East 30 feet of said Lot 27 and 28, and less the South Florida Water Management District Canal C-103 right of way.

Parcel 2:

Lots 25 and 26, in Block 2, of MIAMI LAND AND DEVELOPMENT COMPANY'S SUBDIVISION, Section 15, Township 57 South, Range 39 East, according to the plat thereof, recorded in Plat Book 5, Page 10, of the Public Records of Miami-Dade County, Florida.

Parcel 3:

Lots 5 and 6 in Block 3 of MIAMI LAND AND DEVELOPMENT COMPANY'S SUBDIVISION, Section 15, Township 57 South, Range 39 East, according to the plat thereof, recorded in Plat Book 5, Page 10, of the Public Records of Miami-Dade County, Florida.

Parcel 4:

Lot 7 in Block 3, of MIAMI LAND AND DEVELOPMENT COMPANY'S SUBDIVISION, Section 15, Township 57 South, Range 39 East, according to the plat thereof, recorded in Plat Book 5, Page 10, of the Public Records of Miami-Dade County, Florida.

Parcel 5:

Tract 26, 27 and 28 less Canal and Road, Block 3, of MIAMI LAND AND DEVELOPMENT COMPANY'S SUBDIVISION, Section 15, Township 57 South, Range 39 East, according to the plat thereof, recorded in Plat Book 5, Page 10, of the Public Records Miami-Dade County, Florida.

Parcel 6:

Lot 21, less canal right of way, in Block 3 of MIAMI LAND AND DEVELOPMENT COMPANY'S SUBDIVISION, according to the plat thereof, recorded in Plat Book 5, Page 10, of the Public Records of Miami-Dade County, Florida, lying and being in Section 15, Township 57 South, Range 39 East.

Parcel 7:

Tract 23, Block 3, of MIAMI LAND AND DEVELOPMENT COMPANY'S SUBDIVISION, as recorded in Plat Book 5, Page 10, in Section 15, Township 57 South, Range 39 East, lying and being in Miami-Dade County, Florida.

Parcel 8:

Tract 24 and 25 less that portion of the North 70 feet of the South 105 feet of Section 15, Township 57 South, Range 39 East, lying within said Tract 25, of Block 3, MIAMI LAND AND DEVELOPMENT COMPANY'S SUBDIVISION, Section 15, Township 57 South, Range 39 East, according to the plat thereof, recorded in Plat Book 5, Page 10, of the Public Records of Miami-Dade County, Florida.

Parcel 9:

Tract 22, less the South 105 feet thereof, Block 3, MIAMI LAND AND DEVELOPMENT COMPANY'S SUBDIVISION, lying in Section 15, Township 57 South, Range 39 East, according to the plat thereof, as recorded in Plat Book 5, Page 10, in the Public Records of Miami-Dade County, Florida.

Parcel 10:

Tracts 1, 2, 3 and 4, in Block 3, of MIAMI LAND AND DEVELOPMENT COMPANY'S SUBDIVISION, Section 15, Township 57 South, Range 39 East, according to the plat thereof, recorded in Plat Book 5, Page 10, of the Public Records of Miami-Dade County, Florida.

EXHIBIT "B"

BAYWINDS

That portion of Lots 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 and 20, Block 3, of Section 15, Township 57 South, Range 39 East of Miami Land and Development Company's Subdivision, according to the Plat t hereof, recorded in Plat Book 5, Page 10, of the Public Records of Miami-Dade County, Florida, more particularly described as follows:

Lots 8 through 20 inclusive in Block 3 in Section 15, Township 57 South, Range 39 East, of Miami Land and Development Company's Subdivision, according to the Plat thereof, recorded in Plat Book 5, at Page 10 of the Public Records of Miami-Dade County, Florida, less a right of way dedication across that portion of said Lots 8 through 20 inclusive lying within the West 30 feet, the South 105 feet and the North 50 feet of the SW $\frac{1}{4}$ of said Section

EXHIBIT B

PETITION