

ORDINANCE NO. 2006- 26

AN ORDINANCE OF THE CITY OF FREEPORT, FLORIDA, ESTABLISHING THE MAGNOLIA CREEK COMMUNITY DEVELOPMENT DISTRICT PURSUANT TO CHAPTER 190, FLORIDA STATUTES (2006); NAMING THE DISTRICT; DESCRIBING THE EXTERNAL BOUNDARIES OF THE DISTRICT; ACKNOWLEDGING THE DISTRICT'S CHARTER; DESIGNATING FIVE PERSONS TO SERVE AS THE INITIAL MEMBERS OF THE DISTRICT'S BOARD OF SUPERVISORS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

RECITALS

WHEREAS, Owl's Head Development, LLC ("Petitioner"), having obtained written consent to the establishment of the Magnolia Creek Community Development District ("District") from the owners of one hundred percent (100%) of the real property to be included in the District, petitioned the City Council of the City of Freeport, Florida ("City"), to enact an ordinance establishing the Magnolia Creek Community Development District; and

WHEREAS, Petitioner is a limited liability company, authorized to conduct business in the State of Florida; and

WHEREAS, the Florida legislature, by legislative process, adopted the Uniform Community Development District Act of 1980, as codified in Chapter 190, Florida Statutes, which serves as the exclusive charter of the District setting forth the District's general and special powers, functions and duties; and

WHEREAS, the City Council's consideration of the petition to establish the Magnolia Creek Community Development District is a non-adjudicatory, legislative process governed by Chapter 190, Florida Statutes, 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 City on August 24, 2006; and

WHEREAS, upon consideration of the record established at that hearing, the City 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 CITY COUNCIL OF THE CITY OF FREEPORT, FLORIDA, THAT:

SECTION 1. RECITALS. The above stated recitals are true and correct and are incorporated herein.

SECTION 2. AUTHORITY. This ordinance is enacted in compliance with and pursuant to the Uniform Community Development District Act of 1980, Chapter 190, Florida Statutes (2005).

SECTION 3. DISTRICT NAME. There is hereby established a Community Development District situated entirely within the City of Freeport, Florida, which District shall be known as the "Magnolia Creek Community Development District".

SECTION 4. EXTERNAL BOUNDARIES OF THE DISTRICT. The external boundaries of the District are described in **Exhibit A** attached hereto and incorporated by reference, the overall parcel containing 797.33 acres of land, more or less. There are no out parcels excluded within the external boundaries.

SECTION 5. ACKNOWLEDGMENT OF THE DISTRICT'S CHARTER. The City Council, in an informed and non-arbitrary manner, has considered the petition and supplemental information provided in support thereof. On the basis of this information and the general law charter of the District as contained in Chapter 190, Florida Statutes, the City Council hereby approves the petition for establishment of the Magnolia Creek Community Development District. Further, the City acknowledges the general law charter of the District and the general and special powers, functions and duties of the District as contained therein.

Subject to the following, the City Council expressly consents to the exercise of the following special powers which the District is, by general law charter, authorized to exercise pursuant to Section 190.012(2), Florida Statutes:

- (a) Parks and facilities for indoor and outdoor recreational, cultural and educational uses; and
- (b) Security including, but not limited to, guard houses, fences and gates, electronic intrusion-detection systems and patrol cars, when authorized by responsible governmental agencies.

Such consent shall be dependent upon the receipt by the City of a request from the Board of Supervisors for such consent. Upon receipt of such request, the Mayor shall issue a letter to the District evidencing the City Council's consent to the exercise of such powers pursuant to the District's general law charter.

SECTION 6. BOARD OF SUPERVISORS. The five (5) persons designated to serve as initial members of the District's Board of Supervisors are as follows: Dave Rauschkolb, Maricanna Khoury-Vogt, Frank Molak, Carey McWhorter and Barry Oxford.

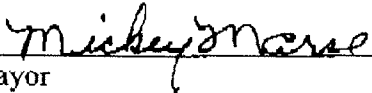
All of the above-styled persons are residents of the State of Florida and citizens of the United States of America.

SECTION 7. 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 8. EFFECTIVE DATE. This Ordinance shall take effect ten (10) days after passage by the City Council.

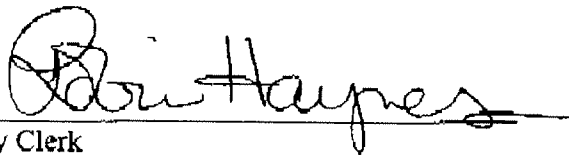
PASSED AND ENACTED by the City Council of the City of Freeport, Florida, this 12th day of SEPTEMBER, 2006.

**CITY COUNCIL OF THE
CITY OF FREEPORT, FLORIDA**



Mayor

Attest:



City Clerk