

MEMORANDUM

Agenda Item No. 5(A)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

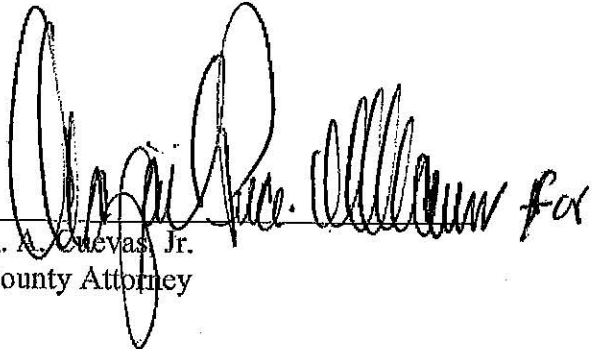
DATE: (Public Hearing 7-14-15)
June 30, 2015

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Ordinance granting petition of
Hialeah Communities, LLC for
establishment of a community
development district; creating
and establishing Bonterra
Community Development
District; providing for name,
powers and duties; providing
description and boundaries;
providing initial members of
Board of supervisors; accepting
proffered declaration of
restrictive covenants

Ordinance No. 15-61

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Jose "Pepe" Diaz.



R. A. Cuevas, Jr.
County Attorney


RAC/cp

Memorandum



Date: July 14, 2015

To: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor 

Subject: Ordinance Creating the Bonterra Community Development District

Recommendation

It is recommended that the Board of County Commissioners (BCC) adopt the attached Ordinance creating the Bonterra Community Development District (CDD) within the municipal limits of City of Hialeah, Florida, 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 Hialeah has approved the creation of the Bonterra CDD by Resolution No. R-2015-15.

Scope

The Bonterra CDD is located within Commissioner Jose "Pepe" Diaz's District 12 and will provide funding for capital improvements, as well as multipurpose maintenance functions, within the CDD.

Fiscal Impact/Funding Source

The creation of the Bonterra CDD will have no fiscal impact to Miami-Dade County. CDD funding is derived from assessments levied against the properties within the CDD, which are secured by a lien against the properties and collected directly by the CDD or through the annual Combined Real Property tax bill pursuant to an interlocal agreement with the County.

Track Record/Monitor

This development has private roads that are to be maintained by Homeowner Associations (HOA) or the Bonterra CDD. With the City of Hialeah's approval, a special taxing district will be created to maintain the development's infrastructure, such as private roadways, private area storm drainage, and landscaping, 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 Hialeah requests the County to implement the CDD.

Background

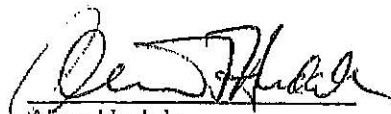
Hialeah Communities, LLC (Petitioner), the owner of the Bonterra Development, has filed an application to create the Bonterra CDD in connection with said development. Bonterra Development is a proposed 109.64 acre residential development within the municipal limits of the City of Hialeah in an area bounded by State Road No. 93 (I-75) on the east, NW 146 Street (West 92 Street) on the south, NW 97 Avenue (West 36 Avenue) on the west, and NW 154 Street (West 100 Street) on the north. The Bonterra CDD is designed to provide a financing mechanism for community infrastructure, facilities, and services along with certain ongoing operations and maintenance for the Bonterra Development. The development plan for the lands within the proposed Bonterra CDD includes construction of approximately 858 residential units consisting of single-family homes, villas, and townhomes with associated roadway improvements (offsite), stormwater management system, water distribution and wastewater collection systems and wetlands mitigation, which are estimated to cost approximately \$12.827 million. A detailed summary of CDD elements, as well as the cost and

Honorable Chairman Jean Monestime
and Members, Board of County Commissioners
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anticipated lack of fiscal impacts to government agencies, are presented in the attached application submitted by the Petitioners. In accordance with Florida Statute 190, the Petitioner has paid a filing fee of \$15,000.00 to the County.

A declaration of restrictive covenants has been submitted consistent with the requirements of Resolution R-413-05 adopted by the BCC on April 5, 2005, and as amended by Resolution No. R-883-06, which was adopted on July 18, 2006 to add language regarding the option to pay capital assessments in full at the time of closing. The restrictive covenant provides for notice in the public records of the projected taxes and assessments to be levied by the Bonterra 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 BCC is authorized by the Florida Constitution and the County Home Rule Charter to establish governmental units, such as this CDD, within the County and to prescribe such government's jurisdiction and powers.


Alina Hudak
Deputy Mayor




MEMORANDUM

(Revised)

TO: Honorable Chairmān Jean Monestime
and Members, Board of County Commissioners

DATE: July 14, 2015

FROM: 
R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 5(A)

Please note any items checked.

- "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
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor

Agenda Item No. 5(A)

Veto _____

7-14-15

Override _____

ORDINANCE NO. 15-61

ORDINANCE GRANTING PETITION OF HIALEAH COMMUNITIES, LLC FOR ESTABLISHMENT OF A COMMUNITY DEVELOPMENT DISTRICT; CREATING AND ESTABLISHING BONTERRA COMMUNITY DEVELOPMENT 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, Hialeah Communities, LLC, a Florida limited liability company ("Petitioner"), has petitioned for the establishment of the Bonterra Community Development District ("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 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 owners of the properties that are 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 or units 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, because the proposed District is located wholly within the municipal boundaries of the City of Hialeah, the City is in a position to be well informed regarding the merits of this District; and

WHEREAS, City of Hialeah has consented to the creation of the District within the municipal boundaries subject to certain conditions that the petitioner shall have to satisfy; and

WHEREAS, the Board of County Commissioners desires to establish the District; and

WHEREAS, County Mayor or the County Mayor's designee has reviewed the Petition and finds that it meets the requirements set forth in Chapter 190, Florida Statutes and Sections 190.011 and 190.012, Florida Statutes; and

WHEREAS, based on the written consent of the City of Hialeah, 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,

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 District over the real property described in the Petition attached hereto, which was filed by the Petitioner on December 18, 2014, 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 A.

Section 3. The external boundaries of the District shall be as described in the certified metes and bounds legal description attached hereto and incorporated herein as Exhibit B to the Ordinance. 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:

Maria Carolina Herrera

Teresa Baluja

Harold Eisenacher

Bruce Parker

Manuel J. Echezarreta.

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

Section 6. The 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 Bonterra 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 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 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 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 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 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 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 District, in connection with the petition submitted by the Petitioner 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: July 14, 2015

Approved by County Attorney as
to form and legal sufficiency:

APW

Prepared by:

JRA

Juliette R. Antoine

Prime Sponsor: Commissioner Jose "Pepe" Diaz