

**ORDINANCE NO. 904**

**AN ORDINANCE OF THE CITY OF SATELLITE BEACH, FLORIDA, REGARDING APPLICATION TO ESTABLISH THE MONTECITO COMMUNITY DEVELOPMENT DISTRICT; MAKING FINDINGS OF FACT REGARDING THE PETITION; ESTABLISHING AND NAMING THE MONTECITO COMMUNITY DEVELOPMENT DISTRICT; DESCRIBING THE BOUNDARIES OF THE DISTRICT; NAMING THE FIVE PERSONS DESIGNATED TO BE THE INITIAL MEMBERS OF THE BOARD OF SUPERVISORS; PROVIDING CONSENT FOR THE EXERCISE OF CERTAIN POWERS; PROVIDING FOR CONFLICT, SEVERABILITY 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, a petition to establish the Montecito Community Development District pursuant to Chapter 190, Florida Statutes, was submitted to the City of Satellite Beach, Florida (the "City") by Phoenix Community Developers, Inc., on February 23, 2005; and

WHEREAS, the proposed Montecito Community Development District comprises approximately 101.98 acres, all located within the City; and

WHEREAS, pursuant to Section 190.005(1)(d), Florida Statutes, notice of the public hearing on the petition to establish the Montecito Community Development District was published in Florida Today once a week for four consecutive weeks prior to the hearing; and

WHEREAS, the City Council held a public hearing on the Petition to establish the District on April 26, 2005; and

WHEREAS, the City, having considered the petition and all information presented at the public hearing, and being fully advised and informed of the premises, has

**ORDINANCE NO. 904****PAGE 2**

determined that it is in the best interests of the citizens of the City to approve the petition to establish the Montecito Community Development District;

**NOW, THEREFORE, BE IT ENACTED BY THE CITY OF SATELLITE BEACH, FLORIDA, AS FOLLOWS:**

**SECTION 1:** The foregoing findings which are expressly set forth herein are hereby adopted and made a part hereof.

**SECTION 2:** The City Council of the City of Satellite Beach, Florida hereby makes the following additional findings of fact:

1. The property proposed to comprise the District consists of 101.98 acres, more or less; lies entirely within the boundaries of the City of Satellite Beach, Florida (the "City"); is generally located north of Patrick Drive, east of South Patrick Drive and West of Ocean Avenue (U.S. Highway A1A), all as identified on the location map attached hereto as Exhibit A. A metes and bounds description of the external boundaries of the proposed District is set forth in the legal description attached hereto as Exhibit B.
2. The City Council has reviewed the Petition to establish the District and found all the statements therein to be true and correct.
3. The proposed District is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developable as one functional, interrelated community and as an independent special district.
4. The creation of the District is the best alternative available for delivering the community development services set forth below and facilities to the area that will be served by the District.

**ORDINANCE NO. 904**

- 5. The community development services and facilities of the District will be compatible with the capacity and uses of existing City and regional community development services and facilities.
- 6. The area that will be served by the District is amendable to separate special district government.

**SECTION 2:** The City Council hereby grants the Petition to establish and create a community development district, which shall be known as the "Montecito Community Development District."

**SECTION 3:** The District shall consist of that area generally consisting of 101.98 acres, more or less, lying entirely within the boundaries of the City of Satellite Beach, Florida, and generally located north of Patrick Drive, east of South Patrick Drive and west of Ocean Avenue (U.S. Highway A1A), all as identified on the location map attached hereto as Exhibit A. The metes and bounds description of the external boundaries of the proposed District set forth in the legal description attached hereto as composite Exhibit B, and by this reference are incorporated herein.

**SECTION 4:** Pursuant to Section 190.005(2)(d), Florida Statutes, the charter for the District shall consist of Sections 190.006 through 190.041, Florida Statutes, inclusive.

**SECTION 6:** The five persons designated to be the initial members of the Board of Supervisors are as follows:

Kenneth Mitchell 6767 North Wickham Road, Suite 500 Melbourne, Florida 32940
James Sigmund 6767 North Wickham Road, Suite 500

**ORDINANCE NO. 904****PAGE 4**

Melbourne, Florida 32940
Robert M. Kush 6767 North Wickham Road, Suite 500 Melbourne, Florida 32940
Patrick K. Longo 6767 North Wickham Road, Suite 500 Melbourne, Florida 32940
David Barin 6767 North Wickham Road, Suite 500 Melbourne, Florida 32940

**SECTION 7:** The District shall have, subject to the regulatory jurisdiction and permitting authority of all applicable governmental bodies, agencies and districts having authority with respect to any area included within the District, those special powers relating to public improvements and community facilities authorized by Section 190.012(1), Florida Statutes. The District, and all property located within the boundaries of the District, shall be subject to all laws and regulations of the City, except to the extent that such laws and regulations are specifically preempted by ch. 190, Florida Statutes, as it existed on the date of adoption of this ordinance.

**SECTION 8:** In addition to the special powers contained in Section 190.012(1), Florida Statutes, the City Council hereby consents to the exercise of, and grants to the District pursuant to Section 190.012(2)(a) and (d), Florida Statutes, the power to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain systems and facilities for:

- (a) parks and facilities for indoor and outdoor recreational, cultural, and educational uses; and

**ORDINANCE NO. 904**


(b) security, including but not limited to guardhouses, fences and gates, except that the district may not exercise any police power.

**SECTION 9. SEVERABILITY CLAUSE.** In the event a court of competent jurisdiction shall hold or determine that any part of this Ordinance is invalid or unconstitutional, the remainder of the Ordinance shall not be affected thereby, and it will be presumed that the City Council for the City of Satellite Beach did not intend to enact such invalid or unconstitutional provision. It shall further be assumed that the City Council would have enacted the remainder of this Ordinance without said invalid and unconstitutional provision thereby causing said remainder to remain in full force and effect.


**SECTION 10: REPEAL OF INCONSISTENT PROVISIONS.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**SECTION 11. EFFECTIVE DATE.** This Ordinance shall become effective immediately upon its adoption.

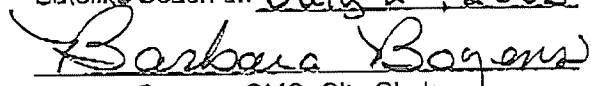
**SECTION 12:** This Ordinance was duly passed on first reading at a regular meeting of the City Council on the 6<sup>th</sup> day of July, 2005, and adopted on the second and final reading at a regular meeting of the City Council on the 20<sup>th</sup> day of July, 2005.

  
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Mark A. Brimer, Mayor

ATTEST:

  
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Barbara Boyens, CMC, City Clerk

I hereby certify that this is a true and accurate copy of Ordinance No. 904 adopted by the City Council of the City of Satellite Beach on July 20, 2005

  
\_\_\_\_\_  
Barbara Boyens, CMC City Clerk