

FILED FOR RECORD
R. B. SHORE

ORDINANCE NO. 06-62

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2006 SEP 15 AM 8: 31

2006 SEP 15 AM 8: 32

CLERK OF THE CIRCUIT COURT
MANATEE CO. FLORIDA

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MANATEE CO. FLORIDA

AN ORDINANCE OF MANATEE COUNTY, FLORIDA, RELATING TO FOREST CREEK COMMUNITY DEVELOPMENT DISTRICT; PROVIDING FINDINGS OF FACT; PROVIDING AUTHORITY; CONSENTING TO THE EXERCISE OF CERTAIN SPECIAL POWERS BY FOREST CREEK COMMUNITY DEVELOPMENT DISTRICT PURSUANT TO SUBSECTION 190.012(2), FLORIDA STATUTES; PROVIDING CONDITIONS FOR THE EXERCISE OF SPECIAL POWERS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR ACKNOWLEDGEMENT AND AGREEMENT BY THE PETITIONER.

FILED
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DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

WHEREAS, Forest Creek Community Development District (District) has been established by law and established pursuant to Manatee County Ordinance No. 05-24, adopted on March 1, 2005, effective as filed with the Secretary of State of Florida on March 8, 2005; and

WHEREAS, based on the information provided by the District Board of Supervisors (Board or Petitioner), the District is active and in good legal standing, and the Board of County Commissioners of Manatee County, Florida, has relied thereon in adopting this Ordinance; and

WHEREAS, Section 190.012, Florida Statutes, as amended, authorizes the District to exercise numerous special powers and provides that Manatee County (County) must consent to the exercise by the District of those special powers listed in Subsection 190.012(2), Florida Statutes, before the District may exercise them; and

WHEREAS, the District Board submitted a petition dated April 29, 2005, to the County for consent to exercise the special powers listed in Subsections 190.012(2)(a) and (2)(d), Florida Statutes (2004); and

WHEREAS, sworn affidavits by District staff and review of the operations and functions of the District and all related information confirms there is no change of circumstances or conditions since the District was established so that consent to the exercise of the special powers set forth in the petition by the District Board is appropriate; and

WHEREAS, based on the information provided by the Petitioner, the District government has the capability of providing these additional special powers, and the Board of County Commissioners has relied thereon in adopting this Ordinance; and

WHEREAS, the consent to exercise the additional special powers is not inconsistent with, will always be subject to and will comply with the Manatee County Comprehensive Plan, the Manatee County Land Development Code, and all related regulations governing the use of land served by the District; and

WHEREAS, the County desires to consent to the exercise by the District of these additional special powers, subject to the conditions set forth in this Ordinance; and

WHEREAS, the County's consent to the exercise by the District of these special powers is in addition to those provided in Section 6 of Manatee County Ordinance No. 05-24 (the Ordinance establishing the District) wherein the County recognized the uniform general law charter of the District contained in Sections 190.006 through 190.041, Florida Statutes.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA:

Section 1. Findings of Fact. The Board of County Commissioners of Manatee County, Florida, hereby adopts the "WHEREAS" clauses stated above as findings of fact in support of this Ordinance.

Section 2. Authority. This Ordinance is adopted pursuant to Section 125.66, Florida Statutes (2005), and other applicable provisions of law governing county ordinances.

Section 3. Consent to Exercise of Certain Special Powers. Pursuant to Subsection 190.012(2), Florida Statutes (2005), the County hereby consents to the exercise by Forest Creek Community Development District of the additional special powers listed in Subsections 190.012(2)(a) and (2)(d), Florida Statutes (2005). More specifically, the District shall have, and the District Board may exercise, so long as it is in compliance with and subject to the Manatee County Comprehensive Plan and the Manatee County Land Development Code, and subject to the regulatory jurisdiction and permitting authority of all applicable governmental bodies, agencies, and special districts having authority with respect to any area included in the District, the power to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain additional systems and facilities for:

- a. Parks and facilities for indoor and outdoor recreational, cultural, and educational uses; and
- b. Security, including, but not limited to, guardhouses, fences and gates, electronic intrusion-detection systems, and patrol cars, when authorized by the Manatee County Sheriff's Department or other proper governmental agencies; except that the District may not exercise any police power, but may contract with appropriate local general-purpose government agencies for an increased level of such services within the District boundaries; and provided, however, that nothing herein shall be construed to provide the District powers inconsistent with any Florida law relating to obstruction of public streets, highways, roads and rights-of-way within the District boundaries.

Such special powers are in addition to the powers provided in Section 6 of Manatee County Ordinance No. 05-24.

Section 4. Conditions for the Exercise of Special Powers. Subject to availability, the District and all residences, institutions, businesses, parks and recreational facilities, governmental facilities, and other uses within the District shall utilize public potable water and wastewater facilities owned and/or operated by the County for the provision of all potable water and wastewater services to the District in accordance with the policies of the County with respect to the operation of the utility systems. In the exercise of the special powers for parks and recreational facilities, the District shall provide systems and facilities exceeding the level of service typically provided by the County. All parks and recreational facilities owned, acquired, established, constructed or reconstructed, enlarged or extended, equipped, operated, maintained or repaired by the District or with District funds shall be open to the public. Pursuant to Chapter 190, Florida Statutes (2005), law enforcement services for the District shall be provided by the Manatee County Sheriff's Department. As used in this ordinance, the term "public street, highway, road or right-of-way" shall mean any street, highway, road or right-of-way which is financed with tax-exempt bonds or other instruments, which is deeded, granted, conveyed or dedicated to the District, to any other governmental entity or to the public, or which is owned, acquired, established, constructed or reconstructed, enlarged or extended, equipped, operated, maintained or repaired by the District, by any other governmental entity or with public funds. In the exercise by the District of the special powers relating to security systems and facilities, no guardhouse, fence or gate shall be constructed, installed, placed, located, maintained or operated on, in or across any public street, highway, road or right-of-way, unless:

- a. An acceptable public access protocol is adopted as an administrative rule pursuant to Chapter 120, Florida Statutes;
- b. The rule includes a requirement that public access will be permanently available on a continuous 24-hour/7-days-a-week basis on all roads that connect to other public roads; and
- c. The District provides satisfactory evidence that the appropriate law enforcement agency, fire and rescue service, and emergency medical service have authorized the proposed gates, fences and guardhouses.

Section 5. Severability. If any section, subsection, sentence, clause, provision or part of this Ordinance shall be held invalid for any reason by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

Section 6. Effective Date. This Ordinance shall be effective immediately upon the filing of a certified copy of this Ordinance with the Secretary of State pursuant to Section 125.66, Florida Statutes.

Section 7. Petitioner Acknowledgment and Agreement. Petitioner acknowledges and agrees to the statements and provisions contained in this Ordinance and evidences such by execution of the acknowledgment and agreement provided below.

ADOPTED, with a quorum present and voting, this 7th day of September, 2006.

BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA

By: Joe McClash
Joe McClash, Chairman



Attest: R. B. Shore
Clerk of the Circuit Court

By: R. B. Shore

ACKNOWLEDGMENT AND AGREEMENT

The undersigned Petitioner, the Board of Supervisors of Forest Creek Community Development District, by and through the undersigned, does hereby acknowledge and agree to the statements and provisions contained in this Ordinance No. 06-62, including the conditions for the exercise of special powers.

Board of Supervisors of Forest Creek
Community Development District

By: James R. Schier
James R. Schier, Chairman

Attest: Karen L. Byrnes
Karen L. Byrnes, Assistant Secretary



STATE OF FLORIDA, COUNTY OF MANATEE
This is to certify that the foregoing is a true and correct copy of the documents on file in my office.

Witness my hand and official seal this 8th day of

September, 2006

R.B. SHORE
Clerk of Circuit Court

By: Diane E. Hollmer D.C.