

**ORDINANCE NO. 2992**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, GRANTING THE PETITION OF MARSH HARBOUR ASSOCIATES, LTD., TO ESTABLISH THE "MARSH HARBOUR COMMUNITY DEVELOPMENT DISTRICT" WITH BOUNDARIES FOR 35.84 ACRES OF REAL PROPERTY; NAMING THE INITIAL MEMBERS OF THE BOARD OF SUPERVISORS OF THE DISTRICT; DESIGNATING THE PURPOSE OF THE DISTRICT; DESIGNATING THE POWERS OF THE DISTRICT; PROVIDING FOR SEVERABILITY, CONFLICTS; AND PROVIDING FOR 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**, Marsh Harbour Associates, Ltd., ("Petitioner"), has petitioned the City of Riviera Beach, Palm Beach County, Florida (the "CITY") to grant the establishment of the Marsh Harbour Community Development District (the "MHCDD"); and

**WHEREAS**, a public hearing has been conducted by the City Council of the City of Riviera Beach, Palm Beach County, Florida (the "CITY") in accordance with the requirements and procedures of Section 190.005(1)(d), Florida Statutes; and

**WHEREAS**, all statements contained within the petition have been notarized as true and correct; and

**WHEREAS**, the creation of the MHCDD is consistent with all applicable elements or portions of the City of Riviera Beach Comprehensive Plan, as amended; and

**WHEREAS**, the area or land within the MHCDD 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 MHCDD is the best alternative available for delivering the community development services and facilities to the area that will be served by the MHCDD; and

**WHEREAS**, the MHCDD will constitute a timely, efficient, effective, responsive and economic way to deliver community development services in the area; and

**ORDINANCE NO. 2992****PAGE 2**

**WHEREAS**, the proposed services and facilities to be provided by the MHCDD 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 MHCDD is amenable to separate special district government; and

**WHEREAS**, the MHCDD desires to levy special assessments on purchasers of benefited land within the MHCDD to pay for infrastructure constructed and/or acquired by the MHCDD; and

**WHEREAS**, the MHCDD shall acquire or construct potable water and wastewater facilities in accordance with the City's Water Utilities District standards and procedures to enable the City to provide potable water and wastewater services to the MHCDD; and

**WHEREAS**, the MHCDD shall acquire or construct surface water management facilities and appurtenances thereto in accordance with the City Engineer and standards and procedures adopted by the City; and

**WHEREAS**, the MHCDD shall construct infrastructure such as roads within the development in accordance with the City Engineer and standards and procedures adopted by the City; and

**WHEREAS**, the MHCDD does not have any zoning or development permitting power and the establishment of the MHCDD is not a development order; and

**WHEREAS**, all applicable planning and permitting laws, rules, regulations and policies control the development of the land to be serviced by the MHCDD; and

**WHEREAS**, the City Council has considered the record of the public hearing and has decided that the establishment of the MHCDD is the best alternative means to provide certain basic services to the community; and

**WHEREAS**, the City Council finds that the MHCDD shall have the general powers described in Section 190.011, Florida Statutes.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA:**

**SECTION 1.** The above recitations are true and incorporated by reference herein.

**SECTION 2.** The Petition to establish the Marsh Harbour Community Development District over the real property described in Exhibit "A" hereto, which was

**ORDINANCE NO. 2992****PAGE 3**

filed by Marsh Harbour Associates, Ltd, Inc. on December 13, 2004 and which Petition is on file at the Office of the City Clerk, is hereby granted.

**SECTION 3.** The initial members of the Board of Supervisors shall be as follows:

Leyani Ronan  
Gerry Valent  
John Barr  
Elizabeth White  
Max Cruz

**SECTION 4.** The name of the Community Development District shall be "Marsh Harbour Community Development District".

**SECTION 5.** The MHCDD is created for the purposes set forth in and prescribed in the petition.

**SECTION 6.** The City Council hereby grants to the MHCDD all general powers authorized pursuant to Section 190.011, Florida Statutes, and those special powers provided for in Section 190.012(2)(a) and (d), Florida Statutes, and hereby finds that it is in the public interest of the citizens of the City to grant such general and special powers.

**SECTION 7.** Notwithstanding Section 6 as set forth hereinabove, Marsh Harbour Associates, Ltd, Inc., as the fee simple owner, shall enter into a Standard Potable Water and Wastewater Development Agreement with the City for the provision of water and wastewater facilities. Petitioner shall pay all fees and charges as set forth in said Agreement and shall abide by all terms and conditions therein including, but not limited to, constructing or acquiring the water and wastewater facilities in accordance with the City of Riviera Beach Water Utilities District's Uniform Policies and Procedures; providing the City with appropriate easements for said facilities; and providing the City with a deed to said water and wastewater facilities at no cost to the City of Riviera Beach. The City of Riviera Beach Utilities District shall operate and maintain said water and wastewater facilities and provide water and wastewater service upon receipt of all fees and charges, upon completion of construction and upon receipt of said deed.

**SECTION 8.** Pursuant to Section 190.012(1)(b), Florida Statutes, the MHCDD shall have the powers to acquire, construct, operate, maintain, improve and/or replace surface water management facilities and appurtenances thereto.

**SECTION 9.** Pursuant to Section 190.004(4), Florida Statutes, the charter for the MHCDD shall be the Uniform Community Development District charter as set forth in Sections 190.006 through 190.041, Florida Statutes (2004), including the special powers provided by Section 190.012, Florida Statutes.

**SECTION 10.** The MHCDD is solely responsible for the implementation of special assessments upon benefited property within the MHCDD's internal boundaries

**ORDINANCE NO. 2992****PAGE 4**

and shall provide notice of said special assessments to all prospective purchasers of said property.

**SECTION 11.** The MHCDD shall provide full disclosure of the public financing and maintenance of improvements undertaken by the MHCDD. This disclosure shall include a statement in bold print that special assessments imposed by the MHCDD will appear in the tax bill. This disclosure shall meet the requirements of Section 190.048, Florida Statutes, as amended from time to time, and shall be included in every contract for sale and in every recorded deed.

**SECTION 12.** The MHCDD shall disclose the fact that this is a special taxing district and that a special assessment will be assessed on the tax roll against all property owners within the MHCDD.

**SECTION 13.** If any section, paragraph, sentence, clause, phrase or word of this Ordinance is for any reason held by any court of competent jurisdiction to be unconstitutional, inoperative or void, such holding shall not affect the remainder of this Ordinance.

**SECTION 14.** That all section or part of sections of the Code of Ordinances, all Ordinances or parts of Ordinances, and all Resolutions or parts of Resolutions in conflict herewith, be and the same are hereby repealed to extent of such conflict.

**SECTION 15.** This Ordinance shall take effect immediately upon final approval.

**PASSED AND APPROVED** on first reading this 15<sup>th</sup> day of June, 2005.

**PASSED AND ADOPTED** on second and final reading this 20<sup>th</sup> day of July, 2005.

**ORDINANCE NO. 2992****PAGE 5****EXHIBIT A  
LEGAL DESCRIPTION  
MARSH HARBOUR COMMUNITY DEVELOPMENT DISTRICT**

A PARCEL OF LAND LYING IN THE NORTHEAST QUARTER OF SECTION 31, TOWNSHIP 42 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, INCLUDING ALL OF THE PLAT OF CONGRESS PARK HOMES III, AS RECORDED IN PLAT BOOK 58, PAGES 60 AND 61, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; SAID PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID NORTHEAST QUARTER OF SECTION 31, RUN S02°10'06"W ALONG THE WEST LINE OF SAID NORTHEAST QUARTER A DISTANCE OF 1062.92 FEET TO THE SOUTHWEST CORNER OF THE PLAT OF RIVIERA BEACH GARDENS AS RECORDED IN PLAT BOOK 60, PAGES 99 AND 100, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AND POINT OF BEGINNING. THENCE S88°18'37"E ALONG THE SOUTH LINE OF SAID RIVIERA BEACH GARDENS A DISTANCE OF 1109.12 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF CONGRESS AVENUE EXTENSION AS RECORDED IN ROAD PLAT BOOK 4, PAGE 154 PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, THENCE S02°20'10"W ALONG SAID WESTERLY RIGHT-OF-WAY LINE A DISTANCE OF 632.64 FEET; THENCE LEAVING SAID WESTERLY N88°00'54"W ALONG THE NORTH LINE OF THE SOUTH 992.0 FEET OF THE NORTHEAST QUARTER OF SAID SECTION 31, A DISTANCE OF 687.12 FEET; THENCE S02°20'50"W ALONG THE WEST LINE OF THE EAST 1983.75 FEET OF SAID NORTHEAST QUARTER OF SAID SECTION 31, A DISTANCE OF 335.95 FEET; THENCE S88°01'23"E ALONG THE NORTH LINE OF THE SOUTH 656.0 FEET OF THE NORTHEAST QUARTER OF SAID SECTION 31, A DISTANCE OF 160.00 FEET; THENCE S02°20'10"W A DISTANCE OF 60.00 FEET, THENCE S88°01'23E A DISTANCE OF 100.00 FEET; THENCE N02°20'10"E A DISTANCE OF 60.00 FEET; THENCE S88°01'23"E ALONG THE NORTH LINE OF THE SOUTH 656.0 FEET OF THE NORTHEAST QUARTER OF SAID SECTION 31 A DISTANCE OF 427.37 FEET TO A PONT ON THE WESTERLY RIGHT-OF-WAY LINE OF SAID CONGRESS AVENUE EXTENSION; THENCE S02°20'10"W ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 11.25 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE EAST HAVING A RADIUS OF 7692.44 FEET; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 00°57'05" A DISTANCE OF 127.73 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE S01°23'05"W A DISTANCE OF 379.17 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE WEST, HAVING A RADIUS OF 7586.44 FEET; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 00°57'05" A DISTANCE OF 125.97 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE S02°20'10"W A DISTANCE OF 11.90 FEET TO A POINT ON THE SOUTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 31; THENCE N88°01'23"W ALONG SAID SOUTH LINE A DISTANCE OF 1113.41 FEET TO A POINT ON THE WEST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 31, SAID WEST LINE ALSO BEING THE

**ORDINANCE NO. 2992**

**PAGE 6**

**EXHIBIT A (continued)**  
**LEGAL DESCRIPTION**

**MARSH HARBOUR COMMUNITY DEVELOPMENT DISTRICT**

EAST LINE OF THE C-17 CANAL RIGHT-OF-WAY THENCE N02°11'32"E ALONG SAID RIGHT-OF-WAY LINE A DISTANCE OF 556.00 FEET TO THE NORTHWEST CORNER OF THE PLAT OF SAID CONGRESS PARK HOMES 111; THENCE CONTINUE N02°11'32"E ALONG SAID RIGHT-OF-WAY LINE A DISTANCE OF 1062.92 FEET TO THE POINT OF BEGINNING.

SAID HEREIN DESCRIBED PARCEL OF LAND CONTAINING 35.838 ACRES MORE OR LESS.

**\*\*\*\*\*REMAINING PAGE INTENTIONALLY LEFT BLANK\*\*\*\*\***

ORDINANCE NO. 2992  
PAGE 7

APPROVED:

*Michael D. Brown*  
MICHAEL D. BROWN  
MAYOR

*Elizabeth "Liz" Wade*  
ELIZABETH "LIZ" WADE  
CHAIRPERSON

(MUNICIPAL SEAL)

*Ann Iles*  
ANN ILES  
CHAIR PRO-TEM

ATTEST:

*Vanessa Lee*  
VANESSA LEE  
COUNCILPERSON

*Carrie E. Ward*  
CARRIE E. WARD,  
MASTER MUNICIPAL CLERK  
CITY CLERK

*Judy L. Davis*  
JUDY L. DAVIS  
COUNCILPERSON  
*Edward Rodgers*  
EDWARD RODGERS  
COUNCILPERSON

MOTIONED BY: J. DAVIS

MOTIONED BY: A. ILES

SECONDED BY: A. ILES

SECONDED BY: J. DAVIS

	1 <sup>ST</sup> READING
E. WADE	<u>AYE</u>
A. ILES	<u>AYE</u>
V. LEE	<u>AYE</u>
J. DAVIS	<u>AYE</u>
E. RODGERS	<u>AYE</u>

	2 <sup>ND</sup> & FINAL READING
	<u>AYE</u>
	<u>AYE</u>
	<u>AYE</u>
	<u>AYE</u>
	<u>AYE</u>

REVIEWED AS TO LEGAL SUFFICIENCY

*Pamela H. Ryan*  
PAMALA H. RYAN, CITY ATTORNEY

DATE: 6/6/05


ORDINANCE NO. 2992

PAGE 8

**CERTIFICATION OF PUBLICATION**

I hereby certify that notice of the proposed enactment of this Ordinance was duly published in a newspaper of general circulation within the City of Riviera Beach as required by the applicable Florida Statutes.

7/21/2005  
Date

  
\_\_\_\_\_  
Carrie E. Ward, MMC  
City Clerk