



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.7.

8/2/2022

Subject:

Resolution, Re: Calling for Referendum Election to Consider a Charter Amendment Amending Term Limits for Barefoot Bay Recreation District Board of Trustees.

Fiscal Impact:

NONE. Barefoot Bay Recreation District will pay for all costs associated with the required notice of referendum election, Supervisor of Election costs for conducting the referendum election, and notice of the proposed ordinance amending the charter if the referendum is approved.

Dept/Office:

Barefoot Bay Recreation District Board of Trustees

Requested Action:

It is requested that the Board of County Commissioners approve the attached Resolution calling a referendum election for the electors of Barefoot Bay Recreation District to consider an amendment to the Barefoot Bay Recreation District Charter amending term limits for members of the Board of Trustees.

Summary Explanation and Background:

In the 2022 Legislative Session, the Florida Legislature approved HB 535 (Chapter 2022-234, Laws of Florida) authorizing amended term limits for members of the Barefoot Bay Recreation District Board of Trustees and authorizing standards for staggering the election cycle for said Trustees, subject to approval of the registered electors of the District at a referendum election.

On May 12, 2022, the Barefoot Bay Recreation District authorized the calling of a referendum election to be held on November 8, 2022, subject to approval by the Board of County Commissioners. The attached Resolution calls for a referendum election on November 8, 2022. If approved by the electors of Barefoot Bay Recreation District, the County Commission would then subsequently notice and adopt an Ordinance amending the Barefoot Bay Recreation District Charter to amend the term limits for members of the Board of Trustees from a maximum of three two-year terms to a maximum of two successive complete three-year terms, and then stagger the election cycle. This amendment would not increase the total term that may be served by any individual trustee. The proposed Ordinance is attached as Exhibit "B" to the Resolution.

Contact: John Cary, General Counsel
Barefoot Bay Recreation District
(321) 324-3530
jcary@voselaw.com

Clerk to the Board Instructions:

F.7.

8/2/2022

Return Signed Copy of the Resolution to the Supervisor of Elections, the County Attorney's Office and the County Manager's Office



August 3, 2022

M E M O R A N D U M

TO: Christine Schverak, Interim County Attorney

RE: Item F.7., Resolution Calling for Referendum Election to Consider a Charter Amendment Amending Term Limits for Barefoot Bay Recreation District Board of Trustees

The Board of County Commissioners, in regular session on August 2, 2022, approved and adopted Barefoot Bay Resolution No. 22-002, calling for a referendum election for the electors of Barefoot Bay Recreation District to consider an amendment to the Barefoot Bay Recreation District Charter amending term limits for members of the Board of Trustees. Enclosed is a fully-executed Resolution.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

Kimberly Powell, Clerk to the Board

Encl. (1)

/tr

cc: County Manager
Supervisor of Elections
Barefoot Bay Recreation District

RESOLUTION 22- 002

A RESOLUTION OF BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, CALLING A REFERENDUM ELECTION ON NOVEMBER 8, 2022 ON THE QUESTION OF WHETHER THE CHARTER OF THE BAREFOOT BAY RECREATION DISTRICT SHOULD BE AMENDED TO LIMIT THE NUMBER OF TERMS OF MEMBERS OF THE BOARD OF TRUSTEES OF THE DISTRICT TO NO MORE THAN TWO (2) CONSECUTIVE THREE (3) YEAR TERMS; PROVIDING STANDARDS FOR STAGGERING THE ELECTION CYCLE FOR THE TRUSTEES OF THE BAREFOOT BAY RECREATION DISTRICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA:

SECTION 1. AUTHORITY FOR RESOLUTION. This resolution is adopted pursuant to the authority of the **BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA**, pursuant to Section 418.30, Florida Statutes, Section 101.161, Florida Statutes, and Section 100.342, Florida Statutes regarding amendment of the charter of a Mobile Home Recreation District, and any other applicable provisions of law.

SECTION 2. FINDINGS. It is hereby found and determined as follows:

A. A Charter has been adopted for the Barefoot Bay Recreation District entitled "Charter of the Barefoot Bay Recreation District" (Brevard County Ordinance 84-05, which has been subsequently been amended by Ordinance 96-53, Ordinance 08-03, Ordinance 12-01, and Ordinance 18-22 adopted by the Board of County Commissioners of Brevard County).

B. The Barefoot Bay Recreation District Board of Trustees has proposed certain amendments to the "Charter of the Barefoot Bay Recreation District;"

C. Section 418.30, Florida Statutes requires proposed amendments to a recreation district charter to be approved by a vote of the electors of the District and subsequently incorporated into an ordinance of the county or municipality which established said District;

D. The general election to be held on November 8, 2022, is an appropriate and desirable date for the conduct of a concurrent referendum election;

E. All things required to be done prior to the calling of a referendum election on the question of amending the Charter of the Barefoot Bay Recreation District have been done and it is now desirable to call the necessary referendum election.

F. House Bill No. 535, passed during the 2022 regular session of the Florida Legislature, and signed by Governor DeSantis on June 24, 2022, authorizes an amendment to the Charter of the Barefoot Bay Recreation District, subject to approval of the electors of the District, to limit the number of terms of members of the Board of Trustees of the District to no more than two (2) successive complete three (3) year terms.

SECTION 3. REFERENDUM ELECTION. A referendum election is hereby called and ordered to be held concurrently with the general election to be held on November 8, 2022, to determine whether or not the amendment recited in Section 6 below to the Charter of the Barefoot Bay Recreation District shall be approved.

SECTION 4. NOTICE OF REFERENDUM ELECTION. This resolution shall be published twice in full as part of the Notice of Referendum Election, together with a notice in substantially the form attached hereto as Exhibit "A," in *Florida Today*, a newspaper of general circulation in the Barefoot Bay Recreation District. The publication shall be made by the Clerk to the Barefoot Bay Recreation District Board of Trustees at least thirty (30) days prior to the election; once in the fifth week and once in the third week prior to the week in which the election is to be held.

SECTION 5. PLACES OF VOTING, INSPECTORS, CLERKS. The polls will be open at the voting places on the date of such referendum election during the hours prescribed by law. All qualified electors shall be entitled and permitted to vote at such referendum election on the proposition provided below. The places of voting and the inspectors and clerk for the referendum election shall be those designated by the Supervisor of Elections of Brevard County, Florida.

SECTION 6. OFFICIAL BALLOT. The ballots to be used in the referendum election shall contain one question describing the proposed amendment to the Charter of the Barefoot Bay Recreation District, and shall be in substantially the following form:

BALLOT

Barefoot Bay Recreation District, Brevard County, Florida

NO. 2

**BAREFOOT BAY RECREATION DISTRICT CHARTER AMENDMENT ARTICLE V
TERM LIMITS**

Shall the Barefoot Bay Recreation District Charter be amended to limit the number of terms of members of the Board of Trustees of the District to no more than two (2) successive complete three (3) year terms and to provide standards for staggering the election cycles for Trustees?

YES (for approval)

NO (for rejection)

SECTION 7. CHARTER AMENDMENT. The full text of the amendments shall be as follows:

A. Attached draft proposed ordinance amending Barefoot Bay Recreation District

Charter hereby incorporated as Exhibit "B."

- B. The above amendments shall take effect upon the adoption of an Ordinance of the Board of County Commissioners of Brevard County, Florida, incorporating those amendments to the Charter of the Barefoot Bay Recreation District as approved by the electorate

SECTION 8. PAYMENT OF REFERENDUM ELECTION EXPENSES. The Barefoot Bay Recreation District shall pay all lawful expenses associated with conducting the referendum election.

SECTION 9. VOTER REGISTRATION BOOKS. The Supervisor of Elections for Brevard County is hereby authorized and requested to furnish to the inspectors and clerks at each place where the votes are to be cast in such referendum election, applicable portions of the registration books or certified copies thereof showing the names of the qualified electors.

SECTION 10. ELECTION ADMINISTRATION. The referendum election shall be held and conducted in the manner prescribed by law and shall, as soon as practicable, be returned and canvassed in the manner prescribed by law. The result shall show the number of qualified electors who voted at such referendum election and the number of votes cast respectively for and against approval of the amendment. Upon certification in the manner prescribed by law, the results shall be recorded in the minutes of the Board of County Commissioners of Brevard County, Florida.

SECTION 11. ELECTION RESULTS. If the majority of the votes cast at such a referendum election shall be "Yes (for approval)", the amendment shall pass.

SECTION 12. SEVERABILITY. In the event that any work, phrase, clause, sentence or paragraph hereof shall be held invalid by any court or competent jurisdiction, such holding shall not affect any other word, clause, sentence or paragraph hereof.

SECTION 13. REPEALING CLAUSE. All resolutions or other actions of the Board of Trustees of Barefoot Bay Recreation District which are in conflict herewith are hereby repealed to the extent of such conflict or inconsistency.

SECTION 14. EFFECTIVE DATE. This resolution shall take effect immediately upon adoption.

Done and Adopted in Regular Session of the Board of County Commissioners of Brevard County, Florida, this 2nd Day of August, 2022.

BAREFOOT BAY RECREATION DISTRICT

By: 

KRISTINE ZONKA, CHAIR

ATTEST:


RACHEL M. SADOFF, CLERK

EXHIBIT "A"

**NOTICE OF REFERENDUM ELECTION ON
AMENDMENTS TO CHARTER OF THE BAREFOOT BAY RECREATION DISTRICT**

Notice is hereby given that a referendum election shall be held to consider certain amendments to the Charter of the Barefoot Bay Recreation District. The referendum election shall be held on November 8, 2022, at which the questions described in the following resolution number 22-____ adopted by the Board of County Commissioners of Brevard County, Florida, on the 2nd day of August, 2022, shall be submitted to the electors:

[RECITE RESOLUTION]

EXHIBIT "B"

DRAFT PROPOSED ORDINANCE

ORDINANCE NO. 22-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, AMENDING ORDINANCE NO. 84-05 WHICH CREATED THE CHARTER OF THE BAREFOOT BAY RECREATION DISTRICT; SPECIFICALLY AMENDING ARTICLE V TO LIMIT THE NUMBER OF TERMS OF MEMBERS OF THE BOARD OF TRUSTEES OF THE DISTRICT TO NO MORE THAN TWO (2) SUCCESSIVE COMPLETE THREE (3) YEAR TERMS; PROVIDING STANDARDS FOR STAGGERING THE ELECTION CYCLE FOR THE TRUSTEES OF THE BAREFOOT BAY RECREATION DISTRICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the 1983 Florida Legislation has authorized the creation of independent special districts known as "mobile home park recreation districts" by the enactment of Sections 34 through 38 of Chapter 83-204, Laws of Florida; and

WHEREAS, the residents of Barefoot Bay, a mobile home subdivision located in Brevard County, Florida, petitioned the Board of County Commissioners of Brevard County to establish such a mobile home park recreation district for the said Barefoot Bay subdivision; and

WHEREAS, the formation of such a mobile home park recreation district for Barefoot Bay enabled the residents thereof to acquire, by and through the trustees of the district, ownership and operation of certain recreation facilities and common areas located within Barefoot Bay; and

WHEREAS, the Board of County Commissioners of Brevard County created such a district for Barefoot Bay by way of Ordinance 84-05, which was approved of by a majority of the electors residing in the proposed district, and has since been amended by way of Ordinances 96-53, 08-03, 2012-01, and 18-22; and

WHEREAS, Barefoot Bay, as described herein, is a "mobile home park" under Chapter 83-204, Laws of Florida; and

WHEREAS, the Board of Trustees has recently voted to propose to the electors of the District certain amendments to the District Charter; and

WHEREAS, the electors have approved of certain amendments to the Charter so proposed in the general election held on November 8, 2022; and

WHEREAS, the Legislature of the State of Florida has recently passed HB 535 which provides authority for the amendments approved by the electors of the district;

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

Section 1. ARTICLE V of the Charter of the Barefoot Bay Recreation District as established by Ordinance 84-05 and as amended by Ordinances 96-53, 08-03, 2012-01, and 18-22, shall be amended to read as follows:

ARTICLE V

BOARD OF TRUSTEES

1. **General Powers and Duties.** The governing body of the Barefoot Bay Recreation District shall be known as the Board of Trustees. The Board of Trustees shall exercise all of the powers of the district set forth in Article IV above, and shall have all duties useful and necessary to the exercise of such powers. Except as otherwise provided in this Charter, no action of the Board of Trustees shall be taken except upon the vote of a majority of the entire membership of the board. A majority of the board shall also constitute a quorum for the official conduct of business by the board.

2. **Composition and Qualifications.** The Board of Trustees shall consist of five (5) members elected by the electors of the district. Each member of the Board of Trustees shall be a resident of the district and shall be a qualified elector of the district.

3. **Elections of Trustees.**

(a) Qualified persons desiring to have their names placed on the ballot for election as trustees of the Barefoot Bay Recreation District shall present a written petition to the Supervisor of Elections of Brevard County not less than sixty (60) days prior to the date of each election, which petition shall be signed by the applicant and not less than twenty-five (25) other electors of the district.

(b) Elections for the Board of Trustees shall be held annually on the first Tuesday after the first Monday of November, beginning in 1984. Notice of an election setting forth the names of the persons who have qualified as candidates for the Board of Trustees shall be given by the Supervisor of Elections by mail addressed to each qualified elector not less than fifteen (15) days before the date of the election, and shall also be published one time at least ten days prior to such election in a newspaper of general circulation in Brevard County. Notwithstanding the provisions of Section 101.20, Florida Statutes, the publication of a sample ballot shall not be

required. The Supervisor of Elections shall be entitled to a reasonable reimbursement for conducting each election, payable out of the general funds of the district.

(c) Beginning with the election held in November, ~~2008~~, 2023, qualified candidates may run for the Board of Trustees with the ~~candidate~~ candidate receiving the highest number of votes in descending order filling ~~three (3)~~ vacant seats for a two-year term. For the election of November 2009, the ~~qualified candidates receiving the highest number of votes in descending order shall be elected to fill the respective two (2) vacant seats for a two-year term.~~ shall be elected to serve a term of 3 years and the candidate receiving the second highest number of votes shall be elected to serve a term of 2 years. In the election held in November 2024, the candidates receiving the highest and second highest number of votes shall each be elected to serve a term of 3 years and the candidate receiving the third highest number of votes shall be elected to serve a term of 2 years. In each subsequent election, candidates elected to serve as members of the Board of Trustees shall each be elected to serve a term of 3 years. Thereafter, elections for the Board of Trustees shall be held annually as specified in Section 3 (b) of this Article, with the qualified candidates receiving the highest number of votes in descending order filling any vacant seats for ~~two-year~~ three-year terms or until their successors are duly qualified. Any trustee may succeed himself in office.

4. Vacancies on the Board of Trustees. Any vacancy on the Board of Trustees shall be filled for the unexpired term by the appointment by the remaining trustees of a successor from among the qualified electors of the district.

5. Removal of Trustees. Any trustee who fails to discharge his duties may be removed for cause by the remaining members of the Board of Trustees after due notice and an opportunity to be heard upon charges of malfeasance or malfeasance.

6. Organization Of Board. The Board of Trustees shall organize itself within fourteen (14) days next after each election by electing from its number a chairman, two vice-chairmen, a secretary and a treasurer.

7. Compensation for Services. The trustees shall not receive any compensation their services, but shall be entitled to be reimbursed from funds of the district for any authorized disbursements they may properly incur on behalf of the district.

8. Surety Bonds. Each trustee authorized to sign checks of the district or otherwise designated by the Board of Trustees to handle its funds shall, before he enters upon such duties, execute to the Governor of the State for the benefit of the district, a good and sufficient bond approved by a circuit judge of Brevard County in the sum of Ten Thousand Dollars (\$10,000.00)

with the qualified corporate surety conditioned to faithfully perform the duties of his office and to account for all funds which may come into his hands as such trustee. All premiums for such surety on such bonds shall be paid from the funds of the district.

9. Conduct of Business. As a public body, the Board of Trustees collectively, and each individual member of the Board of Trustees, shall conduct their business as a public body and shall be subject to all laws of the State of Florida relating to open government, financial disclosure, avoidance of conflict of interest, and ethics.

10. Indemnity for Trustees. A trustee who is not guilty of malfeasance or misfeasance in office shall be relieved of any personal liability for acts done by him while holding office. Any trustee who is made a party to any action, suit or proceedings solely by reason of his holding office in the district shall be indemnified by the district against reasonable expenses, including attorney's fees incurred by him in defending such suit, action or proceeding, except with respect to matters wherein it is adjudged that such trustee is liable for gross negligence or misconduct in the performance of his duties.

11. Term Limits. Members of the Board of Trustees of the District shall serve no more than ~~two~~three (23) successive complete ~~three two (32)~~ year terms. A Trustee may not serve more than 6 consecutive years. Beginning with the election to be held in November 2023, if any potential candidate's election to a 3-year term would result in the candidate serving as a Trustee for more than 6 consecutive years, the candidate may not be qualified for election to the Board of Trustees. A member of the Board of Trustees to whom this limitation applies may serve no sooner than 3 years after the expiration of the Member's last successive complete term; ~~however, term-limited Trustees may serve again two (2) years after the Trustee's last successive complete term.~~ This limitation shall not apply to the portion of any unexpired term served by appointment to fill a vacant seat pursuant to Sec. 418.302(5), Florida Statutes. This provision shall apply prospectively to the terms of Trustees elected after the effective date of this Ordinance.

Section 2. The above amendments were submitted to and approved by the electors of the district at a special election held on the 8th day of November, 2022.

Section 3. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect the other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are declared severable.

Section 4. This ordinance shall take effect immediately upon its adoption as provided by law.

[Signatures to Follow]

DONE AND ADOPTED in Regular Session, this _____ day of _____, 2022.

ATTEST:

BOARD OF COUNTY COMMISSIONERS OF BREVARD
COUNTY, FLORIDA

Rachel Sadoff, Clerk

By: _____

Kristine Zonka, Chair

As approved by the Board on: _____

CHAPTER 2022-234

House Bill No. 535

An act relating to Barefoot Bay Recreation District, Brevard County; authorizing an amendment to the district charter, subject to approval by a vote of the electors of the district, to increase the length of terms and stagger the election cycle for the members of the Board of Trustees of the Barefoot Bay Recreation District; providing exceptions to general law; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Notwithstanding s. 418.302(3), Florida Statutes, or any law to the contrary, the Brevard County Commission may amend the Charter of the Barefoot Bay Recreation District, subject to approval by a vote of the electors of the district pursuant to s. 418.30, Florida Statutes, to increase the length of terms and stagger the election cycle for the members of the Board of Trustees of the Barefoot Bay Recreation District. If approved by the electors of the district voting in a referendum election in November 2022, the members of the board of trustees shall be elected as follows:

(1) In the election held in November 2023, the candidate receiving the highest number of votes shall be elected to serve a term of 3 years and the candidate receiving the second highest number of votes shall be elected to serve a term of 2 years.

(2) In the election held in November 2024, the candidates receiving the highest and second highest number of votes shall each be elected to serve a term of 3 years and the candidate receiving the third highest number of votes shall be elected to serve a term of 2 years.

(3) In each subsequent election, candidates elected to serve as members of the board of trustees shall each be elected to serve a term of 3 years.

Section 2. Notwithstanding s. 418.302(3), Florida Statutes, or any law to the contrary, if the referendum election referenced in section 1 of this act is approved by the electors of the district in the election of November 2022, the Board of County Commissioners of Brevard County shall amend the Charter of Barefoot Bay Recreation District to limit the number of terms of the members of the board of trustees of the district to no more than 3 successive complete 2-year terms or 2 successive complete 3-year terms. A trustee may not serve more than 6 consecutive years. Beginning with the election to be held in November 2023, if any potential candidate's election to a 3-year term would result in the candidate serving as a trustee for more than 6 consecutive years, the candidate may not be qualified for election to the board of trustees. A member of the board of trustees to whom this limitation applies may serve no sooner than 3 years after the expiration of the member's last successive complete term. This limitation shall not apply to

the portion of any unexpired term served by appointment to fill a vacant seat pursuant to s. 418.302(5), Florida Statutes. If the referendum referenced in section 1 of this act is approved by the electors of the district in the election of November 2022, this section shall supersede and replace section 1 of chapter 2017-202, Laws of Florida, otherwise section 1 of chapter 2017-202, Laws of Florida, shall remain in full force and effect.

Section 3. This act shall take effect upon becoming a law.

Approved by the Governor June 24, 2022.

Filed in Office Secretary of State June 24, 2022.