



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

New Business - Miscellaneous

J.3.

5/19/2020

Subject:

Revocation of Authority of the Barefoot Bay Recreation District to Collect Its Assessments In the Manner Provided for Ad Valorem Taxes Under Chapter 197, Florida Statutes.

Fiscal Impact:

NONE.

Dept/Office:

District 3

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 District Charter revoking its authority to collect its assessments in the manner of property taxes.

Summary Explanation and Background:

On April 9, 2019, the Board discussed the Barefoot Bay Recreation District's increases to its assessments above CPI. The District's assessment is classified as a "Recreation District Tax" under Florida Statute.

Since this time, the Recreation District has continued to raise the tax above CPI, and has not taken steps to prevent increases in future years.

The attached resolution would allow the residents of the District to have their voices considered on whether it is appropriate for the District to use the County's tax collection system to collect this ballooning assessment.

Clerk to the Board Instructions:

533



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May 20, 2020

M E M O R A N D U M

TO: Frank Abbate, County Manager

RE: Item J.3., Revocation of Authority of the Barefoot Bay Recreation District to Collect its Assessments in the Manner Provided for Ad Valorem Taxes Under Chapter 197, Florida Statutes.

The Board of County Commissioners, in regular session on May 19, 2020, approved Barefoot Bay Resolution No. 20-001, calling for a Referendum election, for the electors of Barefoot Bay Recreation District, to consider an amendment to the Barefoot Bay District Charter revoking its authority to collect its assessments in the manner of property taxes. Enclosed is a fully-executed Resolution.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Kimberly Powell
Kimberly Powell, Deputy Clerk

Encl. (1)

cc: Each Commissioner
County Attorney
Finance
Budget

RESOLUTION 20-001

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA CALLING A REFERENDUM ELECTION ON NOVEMBER 3, 2020 ON THE QUESTION OF WHETHER THE CHARTER OF THE BAREFOOT BAY RECREATION DISTRICT SHOULD BE AMENDED TO REVOKE THE AUTHORITY OF THE BAREFOOT BAY RECREATION DISTRICT TO COLLECT ITS ASSESSMENTS IN THE MANNER PROVIDED FOR AD VALOREM TAXES UNDER CHAPTER 197, FLORIDA STATUTES; 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 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;"
- B. Section 418.30, Florida Statutes required 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;
- C. The general election to be held on November 3, 2020 is an appropriate and desirable date for the conduct of a concurrent referendum election;
- D. 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;
- E. Sections 418.30 and 418.304, Florida Statutes, authorize an amendment to the Charter of the Barefoot Bay Recreation District, subject to the approval of the electors of the District, to revoke the authority of the Barefoot Bay Recreation District to collect assessments in the manner provided for ad valorem taxes.

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 3, 2020, to determine whether or not the amendments recited in Section 7 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 published at least twice, once in the fifth week and once in the third week prior to the week, in which the referendum election is to be held.

SECTION 5. PLACES OF VOTING, INSPECTORS, AND 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. 1

BAREFOOT BAY RECREATION DISTRICT CHARTER AMENDMENT

ARTICLE VI

REVOCATION OF TAXING AUTHORITY

Shall the Charter be amended to revoke the authority of the Barefoot Bay Recreation District to collect its assessments in the manner provided for ad valorem taxes?

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 of by the electorate and shall apply prospectively to the terms of Trustees elected after the effective date of the amendments.

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 of Brevard County is hereby authorized and requested to furnish 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 be 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 referendum 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 and other actions of the County 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, ORDERED, AND ADOPTED in Regular Session of the Board of County Commissioners of Brevard County, Florida this 18 day of May, 2020.

ATTEST:

Clerk

BOARD OF COUNTY COMMISSIONERS OF
BREVARD COUNTY, FLORIDA

By:



BRYAN LOBER, CHAIR

As approved by Board 5/19/2020

EXHIBIT "A"

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

Notice is hereby given that 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 3, 2020, at which the questions described in the following resolution number 20-____ adopted by the Board of County Commissioners of Brevard County, Florida, on the 18th day of August, 2020 shall be submitted to the electors:

[RECITE RESOLUTION]

EXHIBIT "B"

ORDINANCE NO. _____

AN ORDINANCE AMENDING ORDINANCE NO. 84-05 WHICH CREATED THE CHARTER OF THE BAREFOOT BAY RECREATION DISTRICT; SPECIFICALLY AMENDING ARTICLE VI TO REVOKE AUTHORITY OF THE DISTRICT TO COLLECT ASSESSMENTS IN THE MANNER PROVIDED FOR AD VALOREM TAXES UNDER CHAPTER 197, FLORIDA STATUTES; PROVIDING FOR SEWVERABILITY; PROVIDING FOR 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 enactments of Sections 34 through 38 of Chapter 83-204, Laws of Florida; 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 District; and

WHEREAS, the Board of County Commissioners of Brevard County has previously amended Ordinance 84-05 by way of Ordinances 96-53, 08-03, 2012-01, and 18-22; and

WHEREAS, Section 418.20, Florida Statutes provides for amendment of the Charter of the Barefoot Bay Recreation District by the Board of County Commissioners of Brevard County, the governing body of the County, subject to approval by a vote of the electors in the district; and

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

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

ARTICLE VI

BUDGET AND LEVY OF ASSESSMENTS

1. Fiscal Year and Budget. The fiscal year of the district shall commence on October 1 of each year and end on September 30 of the following year. The trustees shall, on or before April 1 of each year, prepare an annual financial statement of income and disbursements during the prior fiscal year. On or before July 1 of each year, the trustees shall prepare and adopt an itemized budget showing the amount of money necessary for the operation of the district for

the next ensuing fiscal year, and the special assessment to be assessed and collected upon all improved residential parcels within the district for the next ensuing year. Such financial statement shall be published once during the month of April each year in a newspaper of general circulation within Brevard County. A copy of the statement and a copy of the budget shall also be furnished to each owner of an improved residential parcel within thirty (30) days after its preparation, and a copy made available for public inspection at the principal office of the district at reasonable hours.

2. Assessments. The trustees shall, on or before July 30 of each year, by resolution, fix the amount of the assessment for the next ensuing year. ~~These special assessments may be collected in the manner provided for ad valorem taxes under Chapter 197, Florida Statutes, subject to the conditions of Section 197.0126.~~ Prior to the adoption of the resolution fixing the amount of the assessment, the trustees shall hold a public hearing at which time qualified electors of the district may appear and be heard. Notice of the time and place of the public hearing shall be published in a newspaper of general circulation within Brevard County at least twenty-one (21) days prior to the public hearing. For purposes of determining the property subject to the district assessment an "improved residential parcel" means a platted lot on which a mobile home may be erected. The district assessment shall not be an ad valorem tax, but a special assessment assessed equally against all improved residential parcels. Each parcel of property in the district is hereby declared to be uniformly benefited by the services of the district.

3. ~~Lien of Assessment. The district assessment shall be a valid lien upon each improved residential parcel of land so assessed until the assessment has been paid and shall be considered a part of the county tax subject to the same penalties, charges, fees and remedies for enforcement and collection, as provided by the laws of the State of Florida for collection of such taxes.~~

Section 2. 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 3. EFFECTIVE DATE. This Ordinance shall take effect immediately upon adoption.