



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Tabled

Consent

F.17.

8/4/2020

Subject:

Resolution, Re: Referendum Election November 3, 2020, to amend the Barefoot Bay Recreation District Charter

Fiscal Impact:

Dept/Office:

Clifford R. Repperger, Jr., Esq., General Counsel for Barefoot Bay Recreation District/Barefoot Bay Recreation District Board of Trustees

Requested Action:

It is requested that the Board of County Commissioners adopt a resolution calling for a referendum election to be held on November 3, 2020 proposing an amendment to the Charter of Barefoot Bay Recreation District to allow for the increase of the District's spending authority.

Summary Explanation and Background:

The Brevard County Board of County Commissioners created Barefoot Bay Recreation District, pursuant to Fla. Stat. Sec. 418.30 by adoption of Ordinance 84-05, which serves as the Charter for Barefoot Bay Recreation District. The Board of County Commissioners has since amended the Charter for Barefoot Bay Recreation District four times by adoption of Ordinance 96-53, Ordinance 08-03, and Ordinance 2012-01, and Ordinance 18-22.

On July 16, 2020, the Barefoot Bay Recreation District Board of Trustees authorized requesting the Board of County Commissioners to adopt a resolution calling for a referendum election to be held on November 3, 2020 in conjunction with the General Election for the purpose of allowing the electors of the District to consider a Charter amendment.

The ballot question proposes to amend the Charter for Barefoot Bay Recreation District by raising the District's spending authority on acquisitions of common real or tangible personal property to an amount not to exceed fifty thousand dollars (\$50,000) without a referendum, consistent with the authority granted in HB 1157, 2007-293, Laws of Florida, adopted by the State Legislature in 2007. The District's current spending authority cap on acquisitions of common real or tangible personal property without a referendum is twenty-five thousand dollars (\$25,000) and was established in 1984. The maximum spending authority allowance authorized by HB 1157, 2007-293, Laws of Florida is one hundred and twenty-five thousand dollars (\$125,000) subject to approval by the electors of the District. The form and content of the proposed ballot question is reflected in Section 6 of the attached draft resolution. Barefoot Bay Recreation District will bear all costs associated with

noticing the referendum election.

Clerk to the Board Instructions:

Attached Resolution



August 5, 2020

MEMORANDUM

TO: Frank Abbate, County Manager

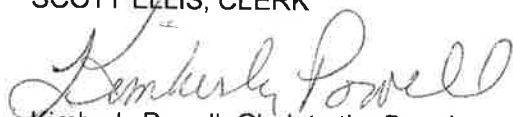
RE: Item F.17., Resolution for Referendum Election November 3, 2020, to Amend the Barefoot Bay Recreation District Charter

The Board of County Commissioners, in regular session on August 4, 2020, tabled the resolution for referendum election November 3, 2020, to amend the Barefoot Bay Recreation District Charter to the September 3, 2020, Board meeting.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK


Kimberly Powell, Clerk to the Board

/ds

RESOLUTION 2020-_____

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 AUTHORIZE THE BAREFOOT BAY RECREATION DISTRICT BOARD OF TRUSTEES TO ENTER INTO CONTRACTS INVOLVING THE PURCHASE, LEASE, CONVEYANCE OR OTHER MANNER OF ACQUISITION OF COMMON REAL OR TANGIBLE PERSONAL PROPERTY WHERE THE COST, PRICE, OR CONSIDERATION FOR SUCH ACQUISITION DOES NOT EXCEED \$50,000 WITHOUT A TWO-THIRDS VOTE OF THE BOARD OF TRUSTEES AND REFERENDUM APPROVED BY THE ELECTORS OF THE 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 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. 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 3, 2020, 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.

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 amendment 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. 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. 1

**BAREFOOT BAY RECREATION DISTRICT CHARTER AMENDMENT
ARTICLE IV. 13.**

Shall the Barefoot Bay Recreation District Charter be amended to increase the Board of Trustees' common real or tangible personal property acquisition spending limit from \$25,000.00 to \$50,000.00?

YES (for approval)

NO (for rejection)

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

A. (Attached Draft Charter Ordinance with Amendments reflected specifically incorporated herein 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.

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 Brevard 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, AND ADOPTED in Regular Session of the Board of County Commissioners of Brevard County, Florida this 4TH day of August, 2020.

ATTEST: BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

CLERK: Scott Ellis

By: _____
BRYAN ANDREW LOBER, CHAIR

Approved by the Board August 4, 2020.

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 3, 2020, at which the questions described in the following resolution number 2020-_____ adopted by the Board of County Commissioners of Brevard County, Florida, on the _____ day of _____ 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, AS AMENDED BY ORDINANCE NO. 96-53; ORDINANCE NO. 08-03; ORDINANCE 12-01; AND ORDINANCE 18-22; SPECIFICALLY AMENDING ARTICLE IV, SECTION 13 TO AUTHORIZE THE BAREFOOT BAY RECREATION DISTRICT BOARD OF TRUSTEES TO ENTER INTO CONTRACTS INVOLVING THE PURCHASE, LEASE, CONVEYANCE OR OTHER MANNER OF ACQUISITION OF COMMON REAL OR TANGIBLE PERSONAL PROPERTY WHERE THE COST, PRICE, OR CONSIDERATION FOR SUCH ACQUISITION DOES NOT EXCEED \$50,000 WITHOUT A TWO-THIRD VOTE OF THE BOARD OF TRUSTEES AND REFERENDUM APPROVED BY THE ELECTORS OF THE 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

WHEREAS, Ordinance 84-05 has 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 which collectively represent the Charter for Barefoot Bay Recreation District; and

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

WHEREAS, the Board of Trustees of Barefoot Bay Recreation District have recently voted to propose the electors of the district certain amendments to the district Charter; and

WHEREAS, the electors have approved of the amendments to the Charter so proposed in a referendum election held on November 3, 2020; and

WHEREAS, in 2007, the Legislature of the State of Florida passed HB 1157, 2007-293, Laws of Florida, which provides authority for amendments to the Barefoot Bay Recreation District Charter regarding the District Board of Trustees' current spending limit of Twenty-five Thousand Dollars (\$25,000.00) to be made up to the limit of One Hundred and Twenty-Five Thousand Dollars (\$125,000.00), if approved by the registered electors of the District;

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

Section 1. ARTICLE IV of the Charter of the Barefoot Bay Recreation District as established by Ordinance 84-05 as amended by Ordinance 96-53, Ordinance 08-03, Ordinance 12-01, and Ordinance 18-22, shall be amended to read as follows:

ARTICLE IV

POWERS OF DISTRICT

As provided in Section 36 of Chapter 83-204, Laws of Florida, the Barefoot Bay Recreation District shall have the following powers, and all further or additional powers as may be necessary or useful in order to exercise the following powers:

1. To sue and be sued and to have a corporate seal.
2. To contract and be contracted with.
3. To acquire, purchase, construct, improve, equip and maintain streets and lights, recreation facilities and other common areas of all types, including real and personal property within the area set forth in Article III above, whether such acquisition is by purchase, lease, gift or otherwise.
4. To levy and assess a special assessment known as a "recreation district tax" against all improved residential parcels within the district for the purpose of providing funds to implement the powers of the district, subject to the provision of Article VI herein-below.

5. To issue bonds or notes to finance, in whole or in part, the cost of construction, acquisition or improvement of common real or personal property of the district. The trustees of the district, in determining such costs, may include all costs and estimated costs of the issuance of the bonds or notes; all engineering, inspection, fiscal and legal expenses; all costs of preliminary surveys, plans, maps and specifications; initial reserve funds for debt service; the costs of the services of persons, firms, corporations, partnerships or associations employed, or consultants, advisors, engineers or fiscal, financial or other experts in the planning, preparation and financing of the district. The trustees are also hereby authorized to employ and to enter into agreements or contracts with consultants, engineers, attorneys, certified public accountants or fiscal, financial or other experts for the planning, preparation and financing of the district or any asset thereof upon such terms and conditions as the trustees deem desirable and proper. The district may pledge to the punctual payment of bonds, notes or revenue certificates and interest thereon an amount of the revenue from the special assessments known as recreation district taxes, as well as fees derived from the use of facilities and services of the district, including acquisitions, extensions and improvements thereof, sufficient to pay the bonds, notes and revenue certificates and the interest thereon, as the same shall become due, and to create and maintain reasonable reserves therefor.
6. To operate and maintain recreational facilities or to enter into arrangements with others for such operation and maintenance pursuant to contract, lease or otherwise.
7. To establish, charge and collect such reasonable fees as may be from time to time established by the trustees of the district for admission to or use of recreational facilities by residents and non-resident owners within the district, their family members, and guests, and such other persons and groups as the Trustees may authorize from time to time, and to apply such fees to the operation, maintenance, improvement, enlargement or acquisition of recreational facilities, or to the payment of bonds, notes or revenue certificates of the district.
8. To adopt and enforce rules for the use of the recreational facilities owned or operated by the district.
9. To employ all personnel, including private security guards deemed necessary for the operation and maintenance of the facilities of the district.
10. To adequately insure the facilities, properties and operations of the district, as well as the trustees of the district jointly and severally in the performance of their duties.
11. To buy, sell, property, rent or lease real and personal property, and to deliver purchase money notes in connection with the acquisition of property.
12. To adopt rules and regulations not inconsistent with existing deed restrictions and to use district funds in the administration and enforcement of such rules, regulations and deed restrictions. The Barefoot Bay Recreation District shall have the specific power to enforce those restrictions appearing in the following deeds of restrictions

and amended deeds of restrictions recorded in the official records of Brevard County, Florida, and all future amendments thereto:

<u>Official Record Book</u>	<u>Page</u>
OR 1093	496
OR 1101	466
OR 1101	473
OR 1101	480
OR 1101	487
OR 1110	925
OR 1129	587
OR 1151	118
OR 1248	559
OR 2247	1359
OR 2391	2461

13. To enter into contracts involving the purchase, lease, conveyance or other manner of acquisition of common real or tangible personal property. In any instance when the cost, price or consideration for such acquisition exceeds ~~Twenty-five Thousand Dollars (\$25,000.00)~~ Fifty Thousand Dollars (\$50,000.00), including all obligations proposed to be assumed in connection with such acquisition, such purchase, lease, conveyance or acquisition shall not be approved unless and until:
- The trustees, by two-thirds (2/3) vote, have approved the terms and conditions of such acquisition by written resolution;
 - Within not less than thirty (30) nor more than sixty (60) days after the date of the resolution, the trustees certify the resolution to the Supervisor of Elections of Brevard County for a referendum election;
 - A majority of the qualified electors of the district approve the resolution by referendum election.

Section 2. The above amendments were submitted to and approved by the electors of the district at a referendum election held on the 3rd day of November 2020.

Section 3. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, the invalidity shall not effect 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 5. This ordinance shall take effect immediately upon its adoption.

DONE AND ADOPTED in Regular Session, this _____ day of _____,
2020.

ATTEST:

BOARD OF COUNTY COMMISSIONERS OF
BREVARD COUNTY, FLORIDA

By: _____