

Meeting Date
August 22, 2017



AGENDA REPORT

BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Resolution, Re: Calling for Referendum Election to Consider a Charter Amendment Imposing Term Limits for Barefoot Bay Recreation District Board of Trustees.
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 imposing term limits for members of the Board of Trustees.

Summary Explanation & Background:

In the 2017 Legislative Session, the Florida Legislature approved HB 905 (Chapter 2017-202, Laws of Florida) authorizing term limits for Barefoot Bay Recreation District Board of Trustees members subject to approval of the registered electors of the District at a referendum election.

On July 25, 2017, the Barefoot Bay Recreation District authorized the calling of a referendum election to be held on November 7, 2017 subject to approval by the Board of County Commissioners.

The attached Resolution calls for a referendum election on November 7, 2017. 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 impose term limits for members of the Board of Trustees. The proposed Ordinance is attached as Exhibit "B" to the Resolution.

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.

Contact: Clifford Repperger, Jr.
 General Counsel
 Barefoot Bay Recreation District
 (321) 727-8100
 cliff.repperger@gray-robinson.com

Clerk to the Board Instructions:

Exhibits Attached: Proposed Resolution Calling for Referendum Election, Chapter 2017-2002, Laws of Florida, and excerpt of the July 25, 2017 minutes of the Barefoot Bay Board of Trustees regular meeting approving the forwarding of the draft Resolution to the County Commission.

Contract /Agreement (If attached): Reviewed by County Attorney Yes No PR

County Manager Frank Abbate <i>fba</i>	Interim Assistant County Manager Jim Liesenfelt	Department Director / Extension
	Assistant County Manager John Denninghoff	



Tammy Rowe, Clerk to the Board. 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

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Tammy.Rowe@brevardclerk.us

August 23, 2017

M E M O R A N D U M

TO: Frank Abbate, County Manager

RE: Item VI.F.3., Resolution Calling for Election to Consider a Charter Amendment Imposing Term Limits for Barefoot Bay Recreation District Board of Trustees

The Board of County Commissioners, in regular session on August 22, 2017, adopted Resolution No. 17-152, calling for a referendum election for the electors of the the Barefoot Bay Recreation District to consider an amendment to the Barefoot Bay Recreation District Charter imposing term limits for members of the Board of Trustees. Enclosed is a certified copy of the Resolution.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

A handwritten signature in cursive script that reads "Tammy Rowe".

Tammy Rowe, Deputy Clerk

/kp

Encl. (1)

cc: County Attorney

RESOLUTION 17-152

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA CALLING A REFERENDUM ELECTION ON NOVEMBER 7, 2017 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 THREE (3) SUCCESSIVE COMPLETE TWO (2) YEAR TERMS; ALLOWING TERM-LIMITED TRUSTEES TO SERVE AGAIN TWO (2) YEARS AFTER THE TRUSTEE'S LAST SUCCESSIVE COMPLETE TERM; 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 municipal and special districts election to be held on November 7, 2017, 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. Chapter 2017-202 Laws of Florida, HB No. 905 (2017), authorizes an amendment to the Charter of 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 three (3) successive complete two (2) year terms and to allow term-limited Trustees to serve again no sooner than two (2) years after expiration of the Trustee's last successive complete term.

SECTION 3. REFERENDUM ELECTION. A referendum election is hereby called and ordered to be held concurrently with the municipal and special districts election to be held on November 7, 2017, 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, 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 provide 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 V
TERM LIMITS

Shall the Charter be amended to limit the number of terms of members of the Board of Trustees of the District to no more than three (3) successive complete two (2) year terms and to allow term-limited Trustees to serve again no sooner than two (2) years after expiration of the Trustee's last successive complete term?

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 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 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 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 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 22 day of August, 2017

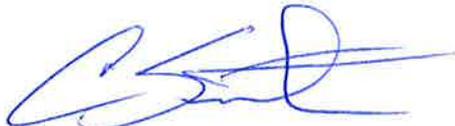
ATTEST:



CLERK

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

By:



CURT SMITH, CHAIR

As approved by Board 8/22/17

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 7, 2017, at which the questions described in the following resolution number 17-_____ adopted by the Board of County Commissioners of Brevard County, Florida, on the _____ day of August, 2017 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 V TO LIMIT THE NUMBER OF TERMS OF MEMBERS OF THE BOARD OF TRUSTEES OF THE DISTRICT TO NO MORE THAN THREE (3) SUCCESSIVE COMPLETE TWO (2) YEAR TERMS; ALLOWING TERM-LIMITED TRUSTEES TO SERVE AGAIN TWO (2) YEARS AFTER THE TRUSTEE'S LAST SUCCESSIVE COMPLETE TERM; 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 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, and 2012-01; and

WHEREAS, the Legislature of the State of Florida has recently passed HB No. 905 (Chapter 2017-202, Laws of Florida) which provides authority term limits for Board of Trustees members subject to approval of the registered electors of the District; and

WHEREAS, the Board of Trustees has recently voted to propose term limits to the registered electors of the District; and

WHEREAS, the electors have approved of the amendments to the Charter so proposed in a referendum election held on November 17, 2017; and

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

Section I. 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 and 2012-01 shall be further amended to read as follows:

ARTICLE V

BOARD OF TRUSTEES

1. General Powers and Duties. The governing body of the Barefoot Day 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, qualified candidates may run for the Board of Trustees with the candidates 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. 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 terms or until their successors are duly qualified. Any trustee may succeed himself in office, subject to the limitation of terms provided herein.

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 misfeasance.

6. Organization Of Board. The Board of Trustees shall organize itself within fourteen (14) days next after the first Tuesday after the first Monday in January 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 three (3) successive complete two (2) year terms; 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 3. The above amendments were submitted to and approved by the electors of the district at a referendum election held on the 7th day of November 2017.

Section 4. 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 _____, 2017.

ATTEST:

BOARD OF COUNTY COMMISSIONERS OF
BREVARD COUNTY, FLORIDA

By:

CHAIR