

54977



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.8.

8/2/2022

Subject:

Resolution, Re: Calling for Referendum Election to Consider a Charter Amendment Amending the Barefoot Bay Recreation District Board of Trustees' Spending Limit for the Acquisition of Real and Personal Property.

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 the Board of Trustees' spending limit for real and personal property acquisition.

Summary Explanation and Background:

In the 2007 Legislative Session, the Florida Legislature approved HB 1157 (Chapter 2007-293, Laws of Florida) authorizing an increased spending limit for real and personal property acquisition to \$125,000 for the Barefoot Bay Recreation District Board of Trustees, subject to approval of the registered electors of the District at a referendum election. The Barefoot Bay Recreation District Board of Trustees' resolution would increase the spending limit to \$50,000, which is less than the current \$25,000 limit when the \$25,000 limit originally passed, when adjusted for inflation.

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 spending limit from \$25,000 to \$50,000 for the acquisition of real and personal property. 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:

Return a signed copy to the Supervisor of Elections, the County Attorney's Office and the County Manager's office.



August 3, 2022

MEMORANDUM

TO: Christine Schrevak, Interim County Attorney

RE: Item F.8., Resolution Calling for Referendum Election to Consider a Charter Amendment Amending the Barefoot Bay Recreation District Board of Trustees' Spending Limit for the Acquisition of Real and Personal Property

The Board of County Commissioners, in regular session on August 2, 2022, approved and adopted Barefoot Bay Resolution No. 22-003, 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 the Board of Trustees' spending limit for real and personal property acquisition. Enclosed is a fully-executed Resolution.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

Kimberly Powell
Kimberly Powell, Clerk to the Board

Encl. (1)

/tr

cc: County Manager
Supervisor of Elections
Barefoot Bay Recreation District

RESOLUTION 22- 003

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 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, 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 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. Chapter 2007-293 (House Bill No. 1157) authorizes the Board of Trustees of Barefoot Bay Recreation District to call for a referendum election for the purpose of proposing an amendment to Article IV, Section 13 of the Charter of the Barefoot Bay Recreation District to the registered electors of Barefoot Bay Recreation District.

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. 1

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

ATTEST:

By: 
RACHEL SADOFF, CLERK

BOARD OF COUNTY COMMISSIONERS OF BREVARD
COUNTY, FLORIDA

By: 
KRISTINE ZONKA, CHAIR

As approved by the Board on: 8/2/2022

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 IV TO AUTHORIZE THE BOARD OF TRUSTEES OF THE DISTRICT 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; 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 2007 Legislature of the State of Florida passed HB 1157 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 IV 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 IV

BOARD OF TRUSTEES

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), 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:

- (a) The trustees, by two-thirds (2/3) vote, have approved the terms and conditions of such acquisition by written resolution;
- (b) 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;
- (c) 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 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 2007-293

House Bill No. 1157

An act relating to the 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 decrease the number of members of the board of trustees of the district; authorizing an amendment to the charter, subject to approval by a vote of the electors of the district, to allow an increase in the minimum cost price or consideration of contracts involving the acquisition of real or tangible personal property that would require a two-thirds vote of district trustees and a referendum election; providing exceptions to general law; providing an effective date.

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

Section 1. Notwithstanding section 418.302, Florida Statutes, 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 section 418.30, Florida Statutes, to require the transition of the governing body of the Barefoot Bay Recreation District from a nine-member board of trustees to a five-member board of trustees elected by the electors of the district.

Section 2. Notwithstanding section 418.304(13), Florida Statutes, 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 section 418.30, Florida Statutes, to allow the Board of Trustees of the Barefoot Bay Recreation District to enter into contracts involving the purchase, lease, conveyance, or other manner of acquisition of common, real, or tangible personal property; however, in any instance when the cost, price, or consideration exceeds \$125,000, including all obligations proposed to be assumed in connection with such acquisition, then such a contract may be entered into only if:

(1) The trustees by a two-thirds vote have approved the terms and conditions of such acquisition by written resolution;

(2) Within not less than 30 days nor more than 60 days after the date of the resolution, the trustees certify the resolution to the supervisor of elections for the county for a referendum election; and

(3) The resolution is approved by a majority vote of the qualified electors of the district voting in a referendum called for the purpose of considering the resolution.

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

Became a law without the Governor's approval June 26, 2007.

Filed in Office Secretary of State June 26, 2007.