



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.3.

12/20/2022

Subject:

Ordinance Amending Article V, Ordinance 84-05, the Charter of the Barefoot Bay Recreation District

Fiscal Impact:

None. Barefoot Bay Recreation District is paying for all costs associated with the Notice of the proposed ordinance.

Dept/Office:

Barefoot Bay Recreation District Board of Trustees

Requested Action:

Amend Ordinance 84-05, the Charter of the Barefoot Bay Recreation District, Article V, as to term limits for members of the District's Board.

Summary Explanation and Background:

This ordinance will formally amend the Barefoot Bay Recreation District's charter to reflect the results of the referendum election on November 8, 2022. It will change the charter so that members of the Board of Trustees may serve a maximum of two successive complete three-year terms, as opposed to three two-years terms, and it will require a break of at least three-years before a trustee serves again. The amendment also provides for staggering of the terms.

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 a referendum election on November 8, 2022, subject to approval of the Board of County Commissioners. On August 2, 2022, the BOCC approved Resolution 22-002, which authorized the referendum. On November 8, 2022, the voters approved the charter amendment. This ordinance will formally amend the charter to reflect the results of the referendum election.

Contact: Garrett Olsen, General Counsel
Barefoot Bay Recreation District
golsen@voselaw.com

Clerk to the Board Instructions:

Return a signed copy to the Brevard County Attorney's Office and Garrett Olson at golsen@voselaw.com.



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

Telephone: (321) 637-2001
Fax: (321) 264-6972
Kimberly.Powell@brevardclerk.us

December 21, 2022

M E M O R A N D U M

TO: Morris Richardson, County Attorney

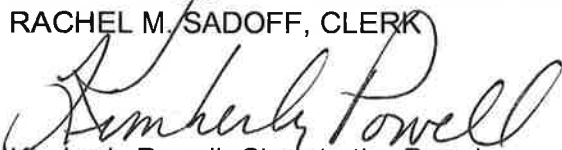
RE: Item H.3., Ordinance Amending Article V, Ordinance 84-05, the Charter of the Barefoot Bay Recreation District

The Board of County Commissioners, in regular session on December 20, 2022, adopted Ordinance No. 22-38, amending Ordinance 84-05, which created the Charter of the Barefoot Bay Recreation District; amending Article V, to limit the number of terms of members of the Board of trustees of the District to no more than two successive complete three-year terms. Enclosed is a fully-executed signed copy Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK


Kimberly Powell, Clerk to the Board

/pp

Encl. (1)

cc: Barefoot Bay Recreation District
Finance
Budget



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

CORD BYRD
Secretary of State

December 22, 2022

Honorable Rachel M. Sadoff
Board of County Commissioners
Brevard County
Post Office Box 999
Titusville, FL 32781-0999

Attention: Deborah Thomas

Dear Honorable Rachel Sadoff,

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 2022-38, which was filed in this office on December 21, 2022.

Sincerely,

Anya Owens
Program Administrator

ACO/rra

ORDINANCE NO. 22- 38

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

OFFICIALLY FILED WITH SECRETARY OF STATE ON DECEMBER 21, 2022

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, with a strike-out indicating deletions and an underline indicating additions:

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) In the election held in November, ~~2008, 2023~~, the qualified 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 three (3) successive complete 2-year terms or two (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; ~~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 Section 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 in accordance with State law.

DONE AND ADOPTED in Regular Session, this 20 day of Dec., 2022.

ATTEST:



Rachel Sadoff, Clerk

BOARD OF COUNTY COMMISSIONERS OF BREVARD
COUNTY, FLORIDA

By:



Rita Pritchett, Chair

As approved by the Board on: 12/20/22

Deborah Thomas

From: County Ordinances <CountyOrdinances@dos.myflorida.com>
Sent: Thursday, December 22, 2022 8:55 AM
To: Deborah Thomas; County Ordinances
Subject: [SPAM-Cuda] RE: BRE20221220_ORDINANCE_38
Attachments: Brevard20221221_Ordinance2022_38_Ack.pdf

Importance: Low

Good morning,

Please find attached the acknowledgment letter for Brevard County Ordinance No. 2022-38, which was filed in this office on December 21, 2022.

Best,

County Ordinances
Florida Administrative Code and Register
Room 701 The Capitol | Tallahassee, Florida

From: Deborah Thomas <deborah.thomas@brevardclerk.us>
Sent: Wednesday, December 21, 2022 5:15 PM
To: County Ordinances <CountyOrdinances@dos.myflorida.com>
Subject: BRE20221220_ORDINANCE_38

EMAIL RECEIVED FROM EXTERNAL SOURCE

The attachments/links in this message have been scanned by Proofpoint.

Good afternoon:

Attached, please find Ordinance No. 2022-38 to be filed with the State.

Thank you.

Deborah Thomas
Administrative Assistant
Clerk to the Board
(321)637-2001
(321)264-6972 (Fax)
Deborah.thomas@brevardclerk.us