

ORDINANCE NO. 2008-116

AN ORDINANCE OF SARASOTA COUNTY, FLORIDA RELATING TO THE NAVIGABLE WATERWAYS MAINTENANCE MANAGEMENT PROGRAM; AMENDING ORDINANCE NO. 2001-099, AS AMENDED, AS CODIFIED IN CHAPTER 54, ARTICLE XXX OF THE SARASOTA COUNTY CODE; AMENDING SECTION 54-951 RELATING TO FINDINGS OF FACT; AMENDING SECTION 54-952 RELATING TO PURPOSE AND AUTHORITY; AMENDING SECTION 54-959 RELATING TO DEFINITIONS; AMENDING SECTION 54-961 RELATING TO WATERWAYS ADVISORY COUNCIL; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

BOARD RECORDS
FILED FOR RECORD
2008 OCT 20 PM 12:41
KAREN E. BLANKING
CLERK OF COUNTY COURT
SARASOTA COUNTY, FLORIDA

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

SECTION 1. This Ordinance hereby amends Ordinance No. 2001-099, as amended, as codified in Article XXX of Chapter 54 of the Sarasota County Code (the "Code"). In this Ordinance, deleted text is shown in ~~strikethrough~~ and new text is underlined.

SECTION 2. Section 54-951 of the Code is hereby amended to read as follows:

Sec. 54-951. Findings of fact.

* * *

(2) The Navigable Waterways Maintenance Management Program established by this article will enhance the availability and use of the navigable waterways within the unincorporated County, will increase boater safety, will improve access to the ~~Intra-coastal~~ Intra-Coastal Waterway from waterfront properties, will provide opportunities to enhance the natural environment and improve the quality of life in Sarasota County, and will enhance the use and enjoyment of properties within the Navigable Waterways Maintenance Management Municipal Services Taxing Unit.

* * *

(5) In order to minimize confusion, reduce administrative burdens, and to provide that all taxable property, real and tangible, within the Funding District contributes to the costs incurred by the Waterways Management MSTU, this article is amended to clarify that the ad valorem levy authorized by this article shall be imposed on ~~all~~ all taxable property, including real and tangible personal property.

SECTION 3. Section 54-952 of the Code is hereby amended to read as follows:

Sec. 54-952. Purpose and authority.

- (a) The purpose and intent of this article is to provide certain municipal services and essential facilities through the establishment of the Navigable Waterways Maintenance Management Program and the creation of ~~the Navigable Waterways Maintenance Management a Municipal Services Taxing Unit to fund the Program.~~
- (b) Further, pursuant to either petition-initiated procedures adopted by Board resolution or by Board initiative, the Board is authorized to create by ordinance smaller geographic units (hereinafter "Project Units") within the Program Unit Area within which will be provided localized Maintenance Dredging services specific to that geographic unit. ~~Navigable Waterways Maintenance Management Municipal Services Taxing Unit. In order to provide funds for maintenance dredging services and improvements within the Project Units, the Project Units shall be formed as either Municipal Service Taxing Units or Municipal Service Benefit Units pursuant to either petition initiated procedures adopted by Board resolution or by Board initiative.~~
- (c) Provided further, the Board is authorized to create by ordinance smaller municipal service benefit or taxing units (hereinafter "Funding Districts") in order to provide funding for Maintenance Dredging performed within specific Project Units.

SECTION 4. Section 54-959 of the Code is hereby amended to read as follows:

Sec. 54-959. Definitions.

When used in this article, terms shall be as defined herein, unless the context clearly requires otherwise:

Assessment Roll means the special assessment roll maintained by the Sarasota County Property Appraiser for the levy and collection of non ad valorem special assessment.

Board means the Board of County Commissioners of Sarasota County, Florida.

Boating Obstruction means a permanent or established obstruction which the Waterways Program Manager determines to be a significant barrier to the passage of boats and includes, but is not limited to, weirs, low bridges or other structures, or an extended area within the deepest portion of a channel with an average depth of less than two-feet MLW.

County means Sarasota County, Florida.

Fiscal Year means the period commencing on October 1, of each year and continuing through the next succeeding September 30, or such other period as may be prescribed by law as the Fiscal Year for the County.

Funding District means the municipal services taxing unit or municipal services benefit unit established to fund Project Services costs for a Project Unit. The Funding District is comprised of the properties within the Project Unit as well as those properties outside of the Project Unit geographic area that benefit from the Project but do not abut the Program Waterway. Properties within the Funding District that lie outside of the Project Unit shall be assessed their proportionate share of the annual assessment as determined by Board resolution.

Governing Body means the Board of County Commissioners of Sarasota County, Florida.

Maintenance Dredging means excavating within a Program Waterway to maintain an existing channel within its previous configuration. Generally, Maintenance Dredging will be limited to the depth established by previous dredging, specific permit conditions, or a maximum depth of five feet, and shall be within a channel that is generally no greater than 30-feet in width and no closer than ten feet to any seawall, dock, structure, shoreline or embankment.

Navigable Waterways Maintenance Management Fund or Program Fund means the fund in which the taxes collected pursuant to this article are deposited as specified herein. The fund may be utilized as a temporary funding source for Project Services subject to reimbursement from ~~funds accruing to a Project Unit.~~ revenues received from the relevant Funding District.

Program means the Navigable Waterways Maintenance Management Program established by Section 54-953 herein.

Program Services means those municipal services and essential facilities associated with the ~~Navigable Waterways Maintenance Management~~ Program and include, but are not limited to, activities associated with general management and administration, database development and maintenance, system planning, permitting and multi-site permitting, spoil management, feasibility studies, bidding and contract/purchase order negotiation and award, parcel identification and review, billing and collection, customer information services, project and contract administration, operating and maintaining the Program Waterways, signage and traffic management, derelict vessel management, public/boater education, environmental enhancements, sediment source abatement, and necessary consulting services. Program Services may include Project Services ~~where such costs will be reimbursed to the Program Unit from the Project Unit formed to fund the Project Services.~~ that are more appropriately assessed to the Program Unit rather than to the individual Project Unit.

Program Unit means the Municipal Services Taxing Unit created by Section 54-954 herein.

Program Unit Area means the geographic area described in Section 54-954 herein, which constitutes the Program Unit.

Program Waterway means any waterway within the unincorporated area of Sarasota County with a surface water connection with the ~~Intra-coastal~~ Intra-Coastal Waterway and which: 1) was previously dredged in some location(s) to a minimum depth of two-feet MLW, or 2) is an existing or historical boating area. Program Waterways generally include all waterways which meet the above criteria and extend from the ~~Intra-coastal~~ Intra-Coastal Waterway upstream to a Boating Obstruction. The ~~Intra-coastal~~ Intra-Coastal Waterway system and all water bodies, such as, but not limited to, bay systems and harbors, in which the ~~Intra-coastal~~ Intra-Coastal Waterway system is located are included as Program Waterways.

Project means the Maintenance Dredging conducted within a specific Project Unit.

Project Services means all activities associated with the completion of specific Maintenance Dredging services and improvements within a Project Unit, including, permitting, specification/design/bid document development and physical completion of improvements in accordance with all applicable plans, specifications, design documents, permits and contracts/purchase orders. Costs associated with Project Services are intended to be funded by ad valorem taxes or special assessments levied within ~~additional municipal services taxing units or municipal service benefit unit or "Project Units"~~ the applicable Funding District.

Project Unit means ~~any additional municipal services taxing unit or municipal service benefit unit established to fund project services costs; those properties that abut or are adjacent to the shoreline of a Program Waterway that will benefit from a specific Project.~~

Property Appraiser means the Sarasota County Property Appraiser.

Tax Collector means the Sarasota County Tax Collector.

Tax Roll means the ad valorem tax assessment roll maintained by the Property Appraiser for the purpose of the levy and collection of ad valorem taxes.

Waterways Advisory Council means a group of resident electors of Sarasota County who own property and property owners within the Program Unit appointed by the Governing Body to act in an advisory capacity to the Board on behalf of the Program Unit. ~~The Waterways Advisory Council appointed pursuant to this article constitutes a Board of Advisors under Section 5.2E of the Sarasota County Charter.~~

Waterways Program Manager means the designated individual County employee responsible for administration of the Program.

SECTION 5. Section 54-961 of the Code is hereby amended to read as follows:

Sec. 54-961. Waterways Advisory Council.

The Board, by resolution, may appoint an advisory council and establish procedures governing the advisory council.

- ~~(a) The Waterways Advisory Council is hereby established. The purpose of the Waterways Advisory Council is to provide a conduit for citizen input to the Waterways Program Manager and the Governing Body and to make recommendations and provide advice. The Waterways Advisory Council shall act solely in an advisory capacity, reporting directly to the Governing Body. The Waterways Advisory Council shall have no authority to obligate or expend any County or Program Unit funds without authorization of the Governing Body. All members of the Waterways Advisory Council shall serve without compensation.~~
- ~~(b) The Waterways Advisory Council shall consist of five members who shall be appointed by the Governing Body. All members shall be property owners and residents within the Program Unit. No member of the Waterways Advisory Council shall hold an elected office, be employed by the Governing Body or be a vendor of County goods or services. Applicants for the Waterways Advisory Council and appointed members must be free from actual or potential conflict of interest. If there is an actual or potential conflict of interest, the Waterways Advisory Council member must immediately notify the Chairman of the Waterways Advisory Council and withdraw from consideration of any projects in conflict. Appointments shall be made in the sole discretion of the Governing Body, so that the composition of the Waterways Advisory Council is competent to represent the interests of those served by the Navigable Waterways Maintenance Management Program. Members of the Waterways Advisory Council are required to attend advisory council orientation within six months of their appointment.~~
- ~~(c) Any member of the Waterways Advisory Council who fails to attend at least 75 percent of the meetings in a calendar year is subject to removal by the Governing Body. Members of the Waterways Advisory Council are approved by a majority vote of the Governing Body and can be removed or replaced by a majority vote of the Governing Body, should they deem it necessary. Members of the Waterways Advisory Council shall serve at the pleasure of the Governing Body.~~
- ~~(d) Candidates for the Waterways Advisory Council shall be sought through advertisements in an area newspaper of general circulation. Interested individuals shall submit a completed advisory council application detailing their~~

~~qualifications for the position and reasons for desiring a position on the Waterways Advisory Council. All applications shall be submitted to the Governing Body for approval.~~

- ~~(e) — Initially, three members will serve four year terms and two members will serve two year terms. Members subsequently appointed will serve four year terms, provided however, that members appointed to fill vacancies will serve the remaining term of the member replaced. Vacancies on the Waterways Advisory Council shall be filled in the same manner as the initial appointments. Upon expiration of a member's term there will be no automatic reappointment to the Waterways Advisory Council; the member must reapply for appointment to the Waterways Advisory Council in the same manner as the initial appointment. There shall be no limitation on the number of terms that a member can serve.~~
- ~~(f) — A quorum shall consist of three members.~~
- ~~(g) — The Waterways Advisory Council shall comply with all applicable requirements of Florida's Sunshine Law, Public Records laws and the Code of Ethics for public representatives. All meetings shall be open to the public, and notice of said meetings shall be provided in accordance with Florida Statutes. The preferred method of notice shall be by publication in a newspaper of general circulation. Meetings shall be held at locations provided by the Governing Body.~~
- ~~(h) — The Waterways Advisory Council shall annually elect from its members a chairperson and a vice chairperson and may adopt such procedures and bylaws as the Waterways Advisory Council may deem necessary in the transaction of business and in carrying out the provisions of this article. The Waterways Advisory Council may adopt additional procedures of operation provided there is no conflict with Florida State law or County ordinances, including this article. In the absence of bylaws, Roberts Rules of Order will be the standard.~~
- ~~(i) — The agenda for each meeting shall be prepared and distributed by the Waterways Program Manager, or their designee, to the members in advance of the scheduled meeting. All meetings of the Waterways Advisory Council shall be recorded on audio cassette with typed summary minutes prepared and filed with the Governing Body. The Waterways Program Manager will provide the necessary staff resources to assist the Waterways Advisory Council in fulfilling its Governing Body directed mission.~~
- ~~(j) — In the event the Waterways Advisory Council finds it necessary to appoint sub-committees, those sub-committees shall act as fact-finding bodies only, with their sole purpose to report research issues and/or to report factual findings to the Waterways Advisory Council.~~
- ~~(k) — The Waterways Advisory Council shall have the following responsibilities:~~

- (1) ~~Review each Fiscal Year's budget and work program developed by the Waterways Program Manager and provide comment and recommendation based upon such review;~~
- (2) ~~Make recommendations to the Governing Body on matters relating to Program goals and objectives;~~
- (3) ~~Serve as a forum to review comments, ideas and proposals from the public;~~
- (4) ~~Evaluate the Navigable Waterways Maintenance Management Program and services periodically to assure that the objectives and goals are being achieved consistent with the intent of the Program.~~

SECTION 6. Severability. Should any section, sentence, clause, part or provision of this Ordinance No. 2008-116 be declared by a court of competent jurisdiction to be invalid, such declaration shall not affect the validity of this Ordinance as a whole, or any part thereof other than the part declared to be invalid.

SECTION 7. Effective Date. This Ordinance No. 2008-116 shall take effect upon filing with the Florida Department of State.

PASSED AND DULY ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SARASOTA COUNTY, FLORIDA, this 14th day of October, 2008.

**BOARD OF COUNTY COMMISSIONERS
OF SARASOTA COUNTY, FLORIDA**

ATTEST:

**KAREN E. RUSHING, Clerk of the
Circuit Court and Ex-Officio Clerk
of the Board of County Commissioners
of Sarasota County, Florida**

By: *Shannon Staub*
Shannon Staub, Chair

By: *Karen E. Rushing*
Deputy Clerk

STATE OF FLORIDA
COUNTY OF SARASOTA
I HEREBY CERTIFY THAT THE FOREGOING IS A
TRUE AND CORRECT COPY OF THE ORIGINAL FILES
IN THIS OFFICE WITNESS MY HAND AND OFFICIAL

SEAL THIS DATE October 20, 2008
KAREN E. RUSHING, CLERK OF THE CIRCUIT COURT
EX-OFFICIO CLERK TO THE BOARD OF COUNTY
COMMISSIONERS, SARASOTA COUNTY, FLORIDA

By: *Karen E. Rushing*
DEPUTY CLERK

