

ORDINANCE NO. 2001 - 099

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF SARASOTA COUNTY, FLORIDA CREATING A NEW ARTICLE XXX. NAVIGABLE WATERWAYS MAINTENANCE MANAGEMENT PROGRAM, IN CHAPTER 54 OF THE SARASOTA COUNTY CODE; PROVIDING A TITLE; PROVIDING FINDINGS; PROVIDING PURPOSE AND AUTHORITY; ESTABLISHING A PROGRAM; CREATING A MUNICIPAL SERVICES TAXING UNIT AND PROVIDING LEGAL DESCRIPTIONS OF THE BOUNDARIES THEREOF; AUTHORIZING THE LEVY OF AD VALOREM TAXES; PROVIDING FOR COLLECTION AND USE OF FUNDS; PROVIDING FOR REIMBURSEMENT TO COUNTY OF INITIAL EXPENSES; PROVIDING FOR ANNUAL BUDGET AND AUDIT; PROVIDING DEFINITIONS; PROVIDING FOR THE GOVERNING BODY; PROVIDING FOR A WATERWAYS ADVISORY COUNCIL; PROVIDING FOR A TERM OF EXISTENCE; PROVIDING FOR CLAIMS AGAINST THE PROGRAM UNIT; PROVIDING FOR LIBERAL CONSTRUCTION; PROVIDING FOR SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE.

BOARD RECORDS
FILED FOR RECORD
2001 DEC 27 PM 3:2
MARSHALL HUSKINS
CLERK OF CIRCUIT COURT
SARASOTA COUNTY, FL

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

SECTION 1. There is hereby created a new Article XXX. Navigable Waterways Maintenance Management Program, in Chapter 54 of the Sarasota County Code.

SECTION 2. Article XXX. Navigable Waterways Maintenance Management Program, of Chapter 54 of the Sarasota County Code is hereby adopted to read as follows:

Sec. 54-950. Title.
This article may be cited as the "Sarasota County Navigable Waterways Maintenance Management Ordinance."

Sec. 54-951. Findings of Fact.
The Board of County Commissioners hereby finds and declares that:
(1) The Board of County Commissioners of Sarasota County (hereinafter "Board") has the authority to establish Municipal Service Taxing Units pursuant to Section 125.01(1)(q), Florida Statutes, and the Sarasota County Charter to provide municipal services and essential facilities in a manner not inconsistent with general law, or with

special law approved by vote of the electors, and such power may be exercised by the enactment of County ordinances without referendum approval.

- (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 Intracoastal 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.
- (3) The Navigable Waterways Maintenance Management Program will provide services and facilities, including, but not limited to, boat traffic management, derelict vessel management, maintenance dredging for boating navigation, signage and boat traffic management, environmental enhancements, sediment source abatement, and boater safety and education, for certain waterways within the unincorporated County. The Waterways Management Program will provide services and facilities which constitute a higher level of service that is generally not provided by county governments for county purposes. In a June, 2000, survey of 34 local governments in Southwest Florida by Biological Research Associates, seven out of seventeen municipalities have dredging or waterways management programs, while only three out of seventeen counties provide dredging or waterways management services. Those three counties fund such activities through municipal services taxing or benefit units or other assessments levied on the waterfront properties.
- (4) The Board of County Commissioners has determined that the Navigable Waterways Maintenance Management Program will provide municipal services and essential facilities which should be funded principally by the property owners primarily benefited from such municipal services and essential facilities.

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 Municipal Services Taxing Unit.
- (b) It is a further intent of this Article that additional municipal services taxing units (hereinafter "Project Units") within the Navigable Waterways Maintenance Management Municipal Services Taxing Unit will be created by the Board by ordinance to provide funds for maintenance dredging services and improvements provided within the localized areas within such Project Units.

Sec. 54-953. Program Established.

- (a) There is hereby established the Navigable Waterways Maintenance Management Program, hereinafter referred to as the "Waterways Management Program" or the "Program". The Program shall include provision of certain municipal services and essential facilities related to the maintenance and management of Program Waterways within Sarasota County. Such municipal services and essential facilities include, but are not limited to, maintenance dredging for boating navigation, channel realignment, environmental enhancements, signage and boat traffic management, derelict vessel management, boater safety and education, sediment source abatement, and other appropriate municipal services and essential facilities as approved by the Governing Body.
- (b) The Sarasota County Environmental Services Business Unit shall be the operational means of carrying out the functional requirements of the Program as defined herein. The Waterways Program Manager shall be responsible for administration of the Program. In addition, other County Business Units have certain responsibilities for activities related to the Program, for example, sediment source abatement, pollution control, boater traffic management, environmental enhancements, stormwater conveyance, and public education, and, to the extent feasible without impairing the existing programs of such other Business Units, such activities shall be coordinated within the Program by the Waterways Program Manager.

Sec. 54-954. Creation of Municipal Services Taxing Unit.

There is hereby created a Municipal Services Taxing Unit to be named the Sarasota County Navigable Waterways Maintenance Management Municipal Services Taxing Unit, hereinafter referred to as the "Waterways Management MSTU" or the "Program Unit". The Program Unit includes those properties that abut or are adjacent to the shoreline of a Program Waterway. The boundaries of the Waterways Management MSTU within the unincorporated area of the County are hereby established as described in Exhibit A, attached hereto and incorporated herein.

Sec. 54-955. Authority to Levy Tax.

The Board shall have the authority to annually assess, levy and collect an ad valorem tax for municipal purposes upon all taxable real property within the Program Unit, which tax shall be in addition to all other taxes levied and assessed for state and county purposes. No referendum is required for the assessment, levy and collection of the ad valorem tax authorized under this Article. Maximum millage would be 0.05 mills.

Sec. 54-956. Collection and Use of Funds.

The ad valorem tax authorized under this Article shall be levied and collected in the same manner as is provided by law for the assessment, equalization, and collection of other county taxes. The Board shall assess and have collected from all land within said Program Unit the taxes as herein provided until all warrants, checks,

bonds or other indebtedness shall have been paid in full and cancelled. The Property Appraiser and Tax Collector shall each receive compensation for their services in accordance with general law. The Tax Collector shall immediately upon receipt of taxes paid under the provisions of this Article disburse the same to the Clerk of the Board for use by the Board in the manner provided by this Article. Such funds shall be placed in a separate fund to be known as the "Navigable Waterways Maintenance Management Fund". The Governing Body is authorized and empowered to expend and use the moneys collected under the taxing provisions of this Article to carry out the intent and purpose of this Article for Program Services.

Sec. 54-957. Initial Expenses of the Program Unit.

All expenses incurred by the County in connection with the creation of the Program Unit and all funds advanced by the County for the development or implementation of the Program shall be reimbursed to the County out of revenues accruing to the Program Unit.

Sec. 54-958. Budgeting of Funds of the Program Unit.

The Governing Body shall prepare and publish an annual budget for the Program Unit in conjunction with the annual budget for the Governing Body as required by Chapter 129, Florida Statutes. No funds of the Program Unit shall be used for any purposes other than the provision of the Program Services and improvements described in this Article as the Governing Body may from time to time determine to be in the best interest of the Program Unit. The Program Unit shall annually adopt a budget and expend its funds in accordance with the requirements of law generally applicable to County government unless otherwise provided in this Article. The Governing Body shall have the books and records of the Program Unit audited in conjunction with annual audit of the Governing Body. The financial statements prepared by the auditor shall be filed with the official records of the Governing Body and shall be available for public inspection.

Sec. 54-959. Definitions.

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

"*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 2.0-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 30th, or such other period as may be prescribed by law as the fiscal year for the County.

"*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 5.0-feet, and shall be within a channel that is generally no greater than 30-feet in width and no closer than 10-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.

"Program" means the Navigable Waterways Maintenance Management Program established by Sec. 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.

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

"Program Unit Area" means the geographic area described in Sec. 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 Intracoastal Waterway and which: 1) was previously dredged in some location(s) to a minimum depth of 2.0-foot 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 Intracoastal Waterway upstream to a Boating Obstruction. The Intracoastal Waterway system and all water bodies, such as, but not limited to, bay systems and harbors, in which the Intracoastal Waterway system is located are included as Program Waterways.

"Project Services" means all activities associated with the completion of specific maintenance dredging services and improvements, 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 levied within additional municipal services taxing units or "Project Units".

"Project Unit" means any additional municipal services taxing units established to fund Project Services costs.

"Property Appraiser" means the Sarasota County Property Appraiser.

"Tax Collector" means the Sarasota County Tax Collector.

"Tax Roll" means the real property 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 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 responsible for administration of the Program.

Sec. 54-960. Governing Body.

The Governing Body of the Program Unit shall be the Board of County Commissioners of Sarasota County, which shall meet from time to time as the Governing Body may determine. Notice of such meetings shall be published in a newspaper of general circulation as required by general law. The Governing Body may recess any meeting so called to a subsequent fixed time and date. The Clerk of the Board shall keep the minutes of all meetings of the Governing Body and shall keep all records of the Program Unit. The Governing Body, in order to provide for the municipal services and essential facilities authorized for this Program Unit, shall have the power to levy ad valorem taxes, contract, borrow and expend funds, and all of the powers granted to the Board by the Sarasota County Charter and the general laws of the State of Florida, as may be necessary or proper to carry out the purpose and intent of this Article. The Governing Body may, by Resolution, establish administrative guidelines and procedures to assist with the administration and operation of the Program Unit.

Sec. 54-961. Waterways 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 (5) 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

