

CHAPTER 2002-365

House Bill No. 997

An act relating to Bayshore Gardens Park and Recreation District, Manatee County; providing for codification; providing legislative intent; providing district status and boundaries; providing for applicability of chapters 418 and 189, Florida Statutes, and other general laws; providing a district charter; providing for liberal construction; providing for severability; repealing chapters 79-509 and 97-357, Laws of Florida; providing an effective date.

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

Section 1. Pursuant to chapter 97-255, Laws of Florida, this act constitutes the codification of all special acts relating to the Bayshore Gardens Park and Recreation District. It is the intent of the Legislature in enacting this law to provide a single, comprehensive special act charter for the district, including all current legislative authority granted to the district by its several legislative enactments and any additional authority granted by this act.

Section 2. Chapters 79-509 and 97-357, Laws of Florida, relating to the Bayshore Gardens Park and Recreation District, are codified, reenacted, amended, and repealed as herein provided.

Section 3. The Bayshore Gardens Park and Recreation District is recreated and the charter for such district is re-created and reenacted to read:

Section 1. Status and boundaries.—The Bayshore Gardens Park and Recreation District is hereby declared to be an independent recreation district and a political subdivision of the State of Florida pursuant to chapter 418, Florida Statutes, as it may be amended from time to time, and the lands lying within the area described as follows in Manatee County shall hereby constitute the Bayshore Gardens Park and Recreation District:

Bayshore Gardens Subdivisions, Section 1, as recorded in Plat Book 9, Page 12, of the Public Records of Manatee County, Florida.

Bayshore Gardens Subdivisions, Section 2, as recorded in Plat Book 9, Pages 35 and 36, of the Public Records of Manatee County, Florida.

Bayshore Gardens Subdivisions, Section 4, as recorded in Plat Book 9, Page 69, of the Public Records of Manatee County, Florida

Bayshore Gardens Subdivisions, Section 3, as recorded in Plat Book 10, Pages 5, 6, and 7, of the Public Records of Manatee County, Florida.

Bayshore Gardens Subdivisions, Section 4 (Replat of Blocks A and B), as recorded in Plat Book 10, Page 10, of the Public Records of Manatee County, Florida.

Bayshore Gardens Subdivision, Section 5, as recorded in Plat Book 10, Pages 17 and 18, of the Public Records of Manatee County, Florida, less Lot 1.

- Bayshore Gardens Subdivisions, Section 3 (Replat of Blocks K, L, and M), as recorded in Plat Book 10, Page 38, of the Public Records of Manatee County, Florida.
- Bayshore Gardens Subdivisions, Section 9A, as recorded in Plat Book 10, Page 83 and 84, of the Public Records of Manatee County, Florida.
- Bayshore Gardens Subdivisions, Section 9B, as recorded in Plat Book 11, Page 2, of the Public Records of Manatee County, Florida.
- Bayshore Gardens Subdivisions, Section 9C, as recorded in Plat Book 11, Page 3, of the Public Records of Manatee County, Florida.
- Bayshore Gardens Subdivisions, Section 9D, as recorded in Plat Book 11, Page 4, of the Public Records of Manatee County, Florida.
- Bayshore Gardens Subdivisions, Section 9E, as recorded in Plat Book 11, Page 5, of the Public Records of Manatee County, Florida.
- Bayshore Gardens Subdivisions, Section 9G, as recorded in Plat Book 11, Page 6, of the Public Records of Manatee County, Florida.
- Bayshore Gardens Subdivisions, Section 6, as recorded in Plat Book 11, Page 59, of the Public Records of Manatee County, Florida.
- Bayshore Gardens Subdivisions, Section 7, as recorded in Plat Book 11, Page 60, of the Public Records of Manatee County, Florida.
- Bayshore Gardens Subdivisions, Section 8, as recorded in Plat Book 11, Page 63, of the Public Records of Manatee County, Florida.
- Bayshore Gardens Subdivisions, Section 10, as recorded in Plat Book 11, Page 93, of the Public Records of Manatee County, Florida.
- Bayshore Gardens Subdivisions, Section 11, as recorded in Plat Book 12, Pages 4 and 5, of the Public Records of Manatee County, Florida.
- Bayshore Gardens Subdivisions, Section 12, as recorded in Plat Book 12, Pages 6 and 7, of the Public Records of Manatee County, Florida.
- Bayshore Gardens Subdivisions, Section 13, as recorded in Plat Book 12, Pages 8 and 9, of the Public Records of Manatee County, Florida.
- Bayshore Gardens Subdivisions, Section 14, as recorded in Plat Book 12, Page 10 and 11, of the Public Records of Manatee County, Florida.
- Bayshore Gardens Subdivisions, Section 31, as recorded in Plat Book 12, Pages 32 and 33, of the Public Records of Manatee County, Florida.
- Bayshore Gardens Subdivisions, Section 32, as recorded in Plat Book 12, Pages 34 and 35, of the Public Records of Manatee County, Florida.
- Bayshore Gardens Subdivisions, Section 33, as recorded in Plat Book 12, Pages 36 and 37, of the Public Records of Manatee County, Florida.
- Bayshore Gardens Subdivisions, Section 19, as recorded in Plat Book 12, Pages 76 and 77, of the Public Records of Manatee County, Florida.
- Bayshore Gardens Subdivisions, Section 20, as recorded in Plat Book 12, Page 78 and 79, of the Public Records of Manatee County, Florida.

Bayshore Gardens Subdivisions, Section 21, as recorded in Plat Book 12, Pages 80 and 81, of the Public Records of Manatee County, Florida,

Bayshore Gardens Subdivisions, Section 22, as recorded in Plat Book 13, Pages 1 and 2, of the Public Records of Manatee County, Florida,

Bayshore Gardens Subdivisions, Section 35, as recorded in Plat Book 13, Pages 44 and 45, of the Public Records of Manatee County, Florida,

Bayshore Gardens Subdivisions, Section 36, as recorded in Plat Book 13, Pages 53 and 54, of the Public Records of Manatee County, Florida,

Bayshore Gardens Subdivisions, Section 37A, as recorded in Plat Book 13, Page 82, of the Public Records of Manatee County, Florida,

Parcel of land, 70' X 108' facing 70' on the extension of Renssalaer Drive described as follows:

Begin as the most Easterly corner of Lot 1, Block C, Section 14, Bayshore Gardens Subdivision, as per Plat thereof recorded in Plat Book 12, Page 10, Public Records of Manatee County, Florida; thence run N 49°47'51" W, along the Northerly line of said Lot 1, Block C, 108.0' to the E line of Renssalaer Drive extended; thence run N 40°12'10" E 70.0' to a point; thence run S 49°47'50" E, 108.0' to a point; thence run S 40°12'10" W 70.0' to the point of beginning; less a 5' easement off the S and E sides of the above described parcel. Begin at the SW corner of Lot 2, Block A, Bayshore Gardens, Section 35, as per Plat recorded in Plat Book 13, Pages 44 and 45; thence run along the W line of said Lot 2, and the extension thereof N 0°30' W, a distance of 108.0 feet to a point; thence run South 89°30' W, a distance of 70.0 feet to a point; thence run S 0°30' E, a distance of 108.0 feet to a point; thence run N 89°30' E, a distance of 70.0 feet to the point of beginning, as described in Official Record Book 308, Page 43, Public Records of Manatee County, Florida.

Section 2. Minimum charter requirements.—In accordance with section 189.404(3), Florida Statutes, the following subsections shall constitute the charter of the Bayshore Gardens Park and Recreation District:

(1) The district is organized and exists for all purposes set forth in this act and chapter 418, Florida Statutes, as they may be amended from time to time.

(2) The powers, functions, and duties of the district regarding ad valorem taxation, bond issuance, other revenue-raising capabilities, budget preparation and approval, liens and foreclosure of liens, use of tax deeds and tax certificates as appropriate for non-ad valorem assessments, and contractual agreements shall be as set forth in chapters 170, 189, 197, and 418, Florida Statutes, or any other applicable general or special law, as they may be amended from time to time.

(3) The district was created by the Legislature in 1979 by House Bill 1238 in accordance with chapter 418, Florida Statutes.

(4) The district's charter may be amended only by special act of the Legislature.

(5) In accordance with chapter 189, Florida Statutes, this act, and section 418.21(1)(a), Florida Statutes, the district is governed by a nine-member board of trustees, elected on a popular vote basis by the residents of the district. The trustees shall hold office for a term of 4 years and may succeed themselves. Election of succeeding boards of trustees shall be held biennially on the first Tuesday after the first Monday of December of each odd-numbered year. Said election shall be held at the Bayshore Gardens Recreation Hall in the district between the hours of 7 a.m. and 7 p.m. The Supervisor of Elections of Manatee County shall conduct the election and canvass the return of said election and shall announce the results thereof. Notice of said election setting forth the names of the persons proposed as trustees of the district for the next ensuing 4 years shall be published by the district one time at least 10 days prior to such election in a newspaper of general circulation published in Manatee County. Said election may be by ballot or by voting machine. All vacancies occurring in the board of trustees from any causes shall be filled for the unexpired term by the remaining trustees by the appointment of a successor trustee or trustees from among the qualified electors of said district. Any trustee moving from the district shall resign forthwith. Any trustee failing to discharge the duties of his or her position may be removed for cause by the board of trustees after due notice and an opportunity to be heard upon charges of malfeasance or misfeasance. The trustees, upon their biennial election, shall organize by electing from their number a chair, two vice chairs, a secretary, and a treasurer.

(6) The trustees shall not receive any compensation for their services but shall be entitled to be reimbursed from funds of the district for travel and per diem, pursuant to section 112.061, Florida Statutes, that they may properly incur on behalf of the district. Before any trustee shall enter upon his or her duties, he or she shall execute to the Governor, for the benefit of the district, a good and sufficient bond in the sum of \$10,000 with a qualified corporate surety conditioned to faithfully perform the duties of such trustee and to account for all funds which may come into his or her hands as such trustee. All premiums for such surety on all bonds shall be paid from the funds of the district.

(7) The administrative duties of the board of trustees shall be as set forth in this act and chapters 189 and 418, Florida Statutes, as they may be amended from time to time. The trustees shall have the following specific powers:

(a) To negotiate purchases and to purchase real and personal property on behalf of the district and to pay for such purchases either with cash or by the issuance of promissory notes or revenue certificates,

(b) To determine and fix the assessment to be assessed annually within the district,

(c) To enter into contracts on behalf of the district,

(d) To buy, sell, rent, or lease real and personal property in the name of the district,

(e) To deliver purchase money notes and mortgages or to assume the obligation of existing mortgages in connection with the acquisition of property of the district.

(f) To receive gifts of real or personal property.

(g) To promulgate reasonable rules and regulations governing the use of the facilities of the district.

A record shall be kept of all meetings of the board of trustees and, in such meetings, a concurrence of the majority of said trustees shall be necessary to any affirmative action taken by the board. Said trustees may adopt such rules and regulations, not inconsistent with any portion of this act, or chapters 189 and 418, Florida Statutes, as they may deem necessary or convenient in and about the transaction of the business of the board and in carrying out the provisions of this act. Notwithstanding any provisions to the contrary herein, the trustees shall not enter into any future contracts involving the purchase, lease, conveyance, or other manner of acquisition of real or tangible personal property in any instance where the cost, price, or consideration thereof exceeds \$25,000, including all obligations proposed to be assumed in connection with such acquisition, unless the trustees by two-thirds vote have approved the terms and conditions of such acquisition by written resolution and within not less than 30 nor more than 60 days after the date of the resolution, the trustees certify the resolution to the Supervisor of Elections of Manatee County for a referendum election, and a majority of qualified electors approve the resolution by referendum election.

(8) Requirements for financial disclosure, meeting notices, and reporting requirements shall be as set forth in chapters 112, 189, 286, and 418, Florida Statutes, as they may be amended from time to time. The fiscal year of the district shall commence October 1. The trustees shall, on or before April 1 of each year, prepare an annual financial statement of income and disbursements during the prior fiscal year. On or before July 1 of each year, the trustees shall prepare and adopt an itemized budget showing the amount of money necessary for the operation of the district for the next fiscal year, and the district assessment to be assessed and collected upon the taxable property of the district for the next ensuing year. Such financial statements shall be published once during the month of April each year in a newspaper of general circulation within the County of Manatee. A copy of said statement and a copy of said budget shall also be made available for public inspection at the principal office of the district at reasonable hours.

(9) The district shall have no authority to issue bonds.

(10) The board of trustees shall have the right, power, and authority to levy a special assessment known as a "recreation district tax" against all taxable real estate situated within said district for the purpose of providing funds for the operation of the district. The trustees shall, on or before June 1 of each year, beginning in the year 1980, or as soon as practicable thereafter, by resolution fix the amount of the assessment for the current year and shall direct the Property Appraiser of Manatee County to assess and the Tax Collector of Manatee County to collect such assessment as assessed upon

each improved residential parcel of property within the district. Prior to the adoption of said resolution fixing the amount of said assessment, the trustees shall hold a public hearing at which time property owners within the district may appear and be heard. Notice of the time and place of the public hearing shall be published once in a newspaper of general circulation within the County of Manatee at least 21 days prior to said public hearing. The assessment shall be determined by dividing the budget by the number of parcels subject to the assessment. If a majority of the residents subject to said assessment present at said public hearing are opposed to the budget and assessment, it shall be reduced until acceptable to a majority voting. The County Property Appraiser shall include on the Manatee County tax roll the special assessment for park and recreation district benefits thus made by the board of trustees of the district, and the same shall be collected in the manner and form as provided for collection of county taxes. The County Tax Collector and the County Property Appraiser shall each receive compensation for their services regarding such special assessments of 1 ½ percent of the gross tax receipts instead of the commissions and fees usually earned for the assessment and collection of county taxes. After deducting therefrom said fees, the County Tax Collector shall deposit the funds into a depository designated by the board of trustees of the district for the account of the district. For the purpose of determining property subject to the district assessment, an "improved residential parcel" means a platted lot or lots on which a residence may be erected. The district assessment shall not be an ad valorem tax but rather shall be a unit tax assessed equally against all improved residential parcels. The district assessment shall be a lien upon each improved residential parcel of land so assessed until said assessment has been paid, and shall be considered a part of the Manatee County tax, subject to the same penalties, charges, fees, and remedies for enforcement and collection as provided by the laws of the state for the collection of such taxes. The proceeds of said assessment and the funds of the district shall be deposited in the name of the district in a bank or savings and loan association or building and loan association authorized to receive deposits of county funds, which depository shall be designated by resolution of the board of trustees. No funds of the district shall be disbursed save and except by check or draft signed by the chair and treasurer of the board or, in the absence of either, by another trustee designated for that purpose by the board.

(11) The district's planning requirements shall be as set forth in chapters 189 and 418, Florida Statutes, as they may be amended from time to time.

(12) The district's geographic boundary limitations shall be as set forth in section 1 of this charter.

(13) The Bayshore Gardens Park and Recreation District is an independent special district as defined in section 189.403(3), Florida Statutes.

(14) The district shall have all powers provided to it by this charter, chapters 189 and 418, Florida Statutes, and other applicable general laws, as they may be amended from time to time.

(15) The district hereby created may be abolished by a two-thirds vote of the qualified electors of the districts participating in an election called by the

trustees of the district for that purpose, which election shall be held and notice thereof given under the same requirements as are set forth hereunder for the election of trustees and the levying and collecting of district assessments; provided, however, that the district shall not be abolished while it has outstanding indebtedness without first making adequate provisions for the liquidation of such outstanding indebtedness.

Section 3. Use of district facilities.—Persons entitled to use the district facilities and property of the district shall be limited to residents within the district, their family members and guests, and such other persons and groups as the trustees may authorize from time to time. The property of the district shall consist of real or personal property and improvements now or hereafter acquired, erected, or purchased by the trustees for the district. For the purposes of this act, each parcel of property in said district is hereby declared to be uniformly and generally benefited by the provisions hereof.

Section 4. Indemnification.—Any trustee who is made a party to any action, suit, or proceeding solely by reason of his or her holding office in the district shall be indemnified by the district against reasonable expenses including attorney's fees incurred by him or her in defending such suit, action, or proceeding, except with respect to matters wherein it shall be adjudged in such proceeding that such trustee is liable for negligence or misconduct in the performance of his or her duties.

Section 4. It is intended that the provisions of this act shall be liberally construed for accomplishing the work authorized and provided for, or intended to be provided for, by this act, and where strict construction would result in the defeat of the accomplishment of any part of the work authorized by this act, and a liberal construction would permit or assist in the accomplishment of any part of the work authorized by this act, the liberal construction shall be chosen.

Section 5. If any clause, section, or provision of this act shall be declared to be unconstitutional or invalid for any cause or reason, the same shall be eliminated from this act, and the remaining portion of this act shall be in force and effect and be as valid as if such invalid portion thereof had not been incorporated therein.

Section 6. Chapters 79-509 and 97-357, Laws of Florida, are repealed.

Section 7. This act shall take effect upon becoming a law.

Approved by the Governor April 25, 2002.

Filed in Office Secretary of State April 25, 2002.