

ORDINANCE NO. 11-03

AN ORDINANCE AMENDING ORDINANCE NO. 06-44, AS AMENDED BY ORDINANCE NOS. 07-27, 08-10 AND 08-13 RELATING TO COMMON FACILITIES DISTRICTS; PROVIDING FOR SUPERVISOR SEAT NUMBERS; REVISING CERTAIN PROVISIONS RELATING TO THE REMOVAL OF SUPERVISORS AND VACANCIES IN OFFICE; AUTHORIZING THE IMPROVEMENT AND MAINTENANCE OF COUNTY RIGHTS-OF-WAY; PERMITTING THE USE OF EXISTING AGREEMENTS FOR PURCHASING; ESTABLISHING A MINIMUM RESERVE BALANCE FOR DISTRICT BUDGETS; AMENDING THE PROVISIONS FOR DISBURSEMENT OF DISTRICT FUNDS AND SURETY BONDS; REVISING CERTAIN PROVISIONS RELATING TO ANNUAL AUDITS; REVISING CERTAIN PROVISIONS RELATING TO DISTRICT CLERK SERVICES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF OSCEOLA COUNTY, FLORIDA:

SECTION 1. DEFINITIONS. Section 1.01 of Ordinance No. 06-44, as amended by Ordinance Nos. 07-27, 08-10 and 08-13, is hereby amended by adding definitions of "Administrative Services," "District Clerk Services" and "Meeting Services" as follows:

"Administrative Services" means the following: (A) maintenance of all District records in the County's administrative offices, (B) coordination with the County's Office of Risk Management to procure insurance for Common Facilities, (C) preparation of checks or drafts for signature by the President and Secretary/Treasurer, if requested by the Secretary/Treasurer, (D) maintenance of financial records for the District, (E) preparation of quarterly and annual financial statements, which include all income and expenses and reflect the net cash position of the District, (F) provision of information to the independent certified public accountant selected by the Board of Supervisors to perform the District's annual audit, and (G) preparation and provision of required reports to the State of Florida Special District Information Program.

"District Clerk Services" means Administrative Services and Meeting Services.

"Meeting Services" means the following: (A) publication of notices and preparation of agendas and other necessary documents for meetings of the Board of

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Supervisors, and (B) recording of meetings and preparation of draft minutes for approval of the Board of Supervisors.

SECTION 2. BOARD OF SUPERVISORS. Subsections (A) and (C) of Section 3.01 of Ordinance No. 06-44, as amended by Ordinance Nos. 07-27, 08-10 and 08-13, are hereby amended, in part, as follows:

SECTION 3.01. ELECTION AND COMPENSATION OF SUPERVISORS.

(A) The business and affairs of the District shall be conducted and administered by a three-member Board of Supervisors elected at-large on a non-partisan basis for four-year terms; provided however, that upon creation of a District, the Board of County Commissioners may appoint three persons to serve as the initial Supervisors until their successors have been elected and taken office. The appointment of all persons serving as Supervisors on the effective date of this Ordinance is hereby ratified and confirmed. Elections shall be held for all existing Districts on November 4, 2008. Elections for Districts created after the effective date of this Ordinance shall be held at the next general election following the creation of such Districts. At the initial election for each District, the candidate receiving the largest number of votes shall be elected to serve a four-year term and the candidates receiving the second and third largest number of votes shall be elected to serve two-year terms. Terms shall commence on the second Tuesday following each general election. Following the initial election, Supervisors shall be elected to specific seats, as designated by resolution of the Board of County Commissioners.

* * *

(C) The office of a Supervisor shall become vacant upon his or her death, resignation, forfeiture, ~~or~~ removal from office by the Board of County Commissioners or if no candidate qualifies for election to any Supervisor's seat. A Supervisor shall forfeit his or her office if he or she lacks at any time during his or her term of office any qualifications for the office required by law or this Ordinance. Any Supervisor failing to discharge his or her duties of office may be removed for cause by the Board of Supervisors, after due notice and an opportunity to be heard, upon charges of malfeasance or misfeasance. Any Supervisor missing three ~~consecutive~~ meetings during any Fiscal Year may be considered for removal by the Board of Supervisors. All vacancies occurring in the Board of Supervisors shall be filled for the unexpired term from among the qualified electors of the District by vote of the remaining Supervisors unless a quorum cannot be obtained, in which event, the vacancy shall be filled by appointment of the Board of County Commissioners.

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SECTION 3. GENERAL POWERS. Section 3.05 of Ordinance No. 06-44, as amended by Ordinance Nos. 07-27, 08-10 and 08-13, is hereby amended by adding new subsections (K) and (L), as follows:

SECTION 3.05. GENERAL POWERS. The Board of Supervisors shall have all powers to carry out the purposes of this Master Ordinance, including the following powers:

* * *

(J) to make and execute contracts or other instruments necessary or convenient to the exercise of its powers; ~~and~~

(K) to construct or install curbs, speed humps, traffic calming devices and other minor improvements to the paved portions of County rights-of-way within the District, with advance written approval of the County;

(L) to improve and/or maintain unpaved portions of County rights-of-way within and adjacent to the District, with advance written approval of the County; and

(M) to do all acts and to exercise all of the powers necessary, convenient, incidental, implied or proper in connection with any of the powers, duties or purposes authorized by this Master Ordinance or the Implementing Ordinance for such District.

SECTION 4. PURCHASING. A new subsection (D) is added to Section 3.06 of Ordinance No. 06-44, as amended by Ordinance Nos. 07-27, 08-10 and 08-13, as follows:

SECTION 3.06. PURCHASING REQUIREMENTS.

* * *

(D) The District shall have the authority to use existing agreements that have been competitively bid and awarded by other governmental agencies sharing the same purchasing principles and practices of the District. Actions shall be documented as the best price/agreement for the District.

SECTION 5. MINIMUM RESERVE BALANCE. Section 3.08 of Ordinance No. 06-44, as amended by Ordinance Nos. 07-27, 08-10 and 08-13, is hereby amended, in part, as follows:

SECTION 3.08. ANNUAL BUDGET.

(A) On or before June 1, the Secretary/Treasurer or designee, shall prepare and present to the Board of Supervisors a tentative balanced budget for the ensuing Fiscal Year in accordance with the uniform chart of accounts prescribed in Uniform

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Accounting System Manual promulgated by the State of Florida Department of Financial Services Bureau of Accounting. The total amount available from Special Assessments and other sources, including amounts carried over from prior Fiscal Years, must equal the total of appropriations for expenditures and reserves. The budget shall include all estimated receipts (including Special Assessment proceeds), any balances expected to be brought forward, all estimated expenditures, reserves, and balances to be carried over at the end of the year. Each District budget shall include a minimum reserve balance equal to at least two months of the total budgeted operating and capital expenditures, to ensure that the District is able to continue operations prior to the receipt of the annual special assessments imposed by the District. This amount may be budgeted in Reserve for Cash, Reserve for Contingency and/or in any Reserve account established by the District. The Board of Supervisors shall review the tentative budget for the District.

(B) Prior to July 1 of each year, the Board of Supervisors shall conduct a public hearing to consider adoption of the budget. Prior to the adoption of the budget, the trustees shall hold a public hearing at which time property owners within the district may appear and be heard. Notice of the time, place and subject of the public hearing shall be published once in a newspaper of general circulation within the County at least twenty days prior to the public hearing. The final budget shall be filed with the Clerk of the Board of County Commissioners.

(C) Public hearings to impose Special Assessments or increase the annual rate of Special Assessments shall be noticed and conducted in the manner required by Article IV hereof.

SECTION 6. DISTRICT FUNDS.

(A) Section 3.02 of Ordinance No. 06-44, as amended by Ordinance Nos. 07-27, 08-10 and 08-13, are hereby amended, in part, as follows:

SECTION 3.02. OFFICERS OF THE BOARD OF SUPERVISORS.

~~(A)~~ At its organizational meeting and at the first meeting of each Fiscal Year thereafter, the Board of Supervisors shall elect a President and Secretary/Treasurer from among its members. The President shall preside at all meetings of the Board of Supervisors. The Secretary/Treasurer shall prepare minutes of the meetings and maintain all books and records of the District, which shall be available for public inspection as required by Chapter 119, Florida Statutes. If for any reason, the Board of Supervisors does not elect a President and Secretary/Treasurer at the first meeting of each Fiscal Year, written notice shall be provided to the County and the person serving in the office for which a successor is not elected shall remain in office until a successor has been elected. There shall be

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no limit upon the number of successive terms to be served by the President and Secretary/Treasurer.

~~(B) The President and Secretary/Treasurer shall be the only Supervisors authorized to execute checks and documents on behalf of the District and shall, before they enter upon such duties, execute to the Board of County Commissioners for the benefit of the District, a good and sufficient bond approved by the Board of County Commissioners in the sum of \$25,000 with a qualified corporate surety conditioned to faithfully perform the duties of President and Secretary/Treasurer, respectively, and to account for all funds which may come into their hands as President and Secretary/Treasurer, respectively. All premiums for such surety on all bonds shall be paid from funds of the District.~~

(B) Section 3.09 of Ordinance No. 06-44, as amended by Ordinance Nos. 07-27, 08-10 and 08-13, are hereby amended, in part, as follows:

SECTION 3.09. DISTRICT FUNDS.

(A) The proceeds of the Special Assessments and other 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 Supervisors. The depository shall treat the funds in accordance with the legal requirements imposed upon such depositories with respect to public funds. No funds of the District shall be disbursed save by check or draft signed by ~~the President and Secretary/Treasurer~~ two Supervisors.

(B) All Supervisors shall, before they enter upon such duties, execute to the Board of County Commissioners for the benefit of the District, a good and sufficient bond approved by the Board of County Commissioners in the sum of \$25,000 with a qualified corporate surety conditioned to faithfully perform the duties of a Supervisor and to account for all funds which may come into their hands as Supervisors. All premiums for such surety on all bonds shall be paid from funds of the District.

SECTION 7. ANNUAL AUDIT. Section 3.10 of Ordinance No. 06-44, as amended by Ordinance Nos. 07-27, 08-10 and 08-13, is hereby amended, in part, as follows:

SECTION 3.10. ANNUAL AUDIT. Immediately after the close of each Fiscal Year, ~~the each~~ District with revenues or combined expenditures and expenses of \$100,000 or more and each District with revenues or combined expenditures and expenses falling between \$50,000 and \$100,000 that has not had a financial audit for the previous two fiscal years shall cause its books, records and accounts to be properly audited by an independent certified public accountant, and

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shall require such accountant to complete its report of such annual audit in accordance with applicable law. Each annual audit shall be completed and delivered prior to ~~January 15~~ March 31 in conformity with generally accepted government auditing standards consistently applied. A copy of each annual audit shall be furnished to Clerk of the Board of County Commissioners.

SECTION 8. DISTRICT CLERK. Section 3.13 of Ordinance No. 06-44, as amended by Ordinance Nos. 07-27, 08-10 and 08-13, is hereby amended, in its entirety, to read as follows:

SECTION 3.13. DISTRICT CLERK.

(A) The County Manager shall assign County personnel to provide District Clerk Services to the District under the direction of the President and Secretary/Treasurer, provided that any person previously contracted to provide District Services on the date Ordinance No. 06-44 was enacted shall continue in such capacity for the remaining term of the contract, which shall not be extended by the District. The County may allocate all or any portion of its cost to provide Administrative Services among the Districts receiving the service. Meeting Services shall be provided on an hourly basis. Each District shall include the cost of District Clerk Services in its annual budget and pay the County for such cost on a quarterly basis, within 10 days following the end of each calendar quarter.

(B) Notwithstanding the foregoing subsection (A), each District may elect to procure Meeting Services from a person or entity other than the County. The person or entity providing Meeting Services must be able to provide an audio recording of the proceedings in addition to the written meeting minutes.

(C) In lieu of providing for District Clerk Services in the manner described in the foregoing subsections (A) and (B), a District's Board of Supervisors may request approval from the County Manager to procure District Clerk Services from a person or entity other than the County. The County Manager shall grant approval if the Supervisors demonstrate an understanding of the Master Ordinance and applicable Florida Statutes. Upon receipt of approval from the County Manager:

(1) The Board of Supervisors shall procure its own District Clerk Services.

(2) The County's Office of Management and Budget will (a) maintain a copy of all District records, including financial records, in the County's administrative offices on behalf of the Board of Supervisors and assist the District's independent auditor to facilitate review of records, if necessary; (b) complete a monthly review of District's expenditures, revenues and meeting minutes, (c) conduct an annual individual meeting with each Supervisor, (d) ensure compliance with the Master Ordinance and applicable

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Florida Statutes, (e) attend each District's annual budget hearing and a minimum of one regular meeting, and (f) monitor the remaining District Clerk Services.

(3) Each District shall be charged on an hourly basis for the services provided by the County's Office of Management and Budget. Each District shall include the cost of such services in its annual budget and pay the County for such cost on a quarterly basis, within 10 days following the end of each calendar quarter.

(D) The County Manager may revoke a District's right to procure its own District Clerk Services if:

(1) the District fails to comply with Florida's Government in the Sunshine Law (Section 286.011, Florida Statutes) or Public Records Act (Section 119.07, Florida Statutes);

(2) the District fails to properly advertise public meetings and hold the meetings when advertised;

(3) the District fails to submit quarterly financial reports for review by the Office of Management and Budget;

(4) a review of the District's monthly financial statements demonstrates that expenditures are improperly processed (no proof of payment, supervisor initials on invoices, missing copies of invoices and checks, unapproved expenditures, etc.);

(5) the District fails to submit annual forms for compliance to the relevant agency on time (Qualified Public Depositor, Special District Fee, Annual Financial Report, etc.)

(6) the District, prior to procurement of insurance for its Common Facilities, fails to receive approval of the insurance policy from the County's Office of Risk Management;

(7) the District fails to submit records to the County on a monthly basis;

(8) the District fails to have an audit of the books, records and accounts conducted by an independent certified public account in accordance with the Master Ordinance;

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(9) the District fails to follow any policies that have been adopted by a Board of Supervisors (Purchasing Policies, Investment Policies, etc.); or

(10) the District fails to meet all requirements in levying a non-ad valorem assessment and adopting a budget which would include, but is not limited to, the following:

(a) submission of advertisements and mailed notices to the County for approval at least 30 days prior to the scheduled budget/assessment public hearing;

(b) satisfaction of the requirement for separate public hearings to address the assessment rate and the budget;

(c) approval of the assessment rate and the budget with separate motions/resolutions; and

(d) submission of an adopted budget package to the Office of Management and Budget prior to the Property Appraiser's deadline for inclusion on the Notice of Proposed Property Taxes and Proposed or Adopted Non-Ad Valorem Assessments, which date will be provided by the Office of Management and Budget to the District's Secretary/Treasurer no later January 31.

(E) County personnel providing District Clerk Services shall not (1) provide policy direction, legal advice or other guidance to the Supervisors in the performance of their duties hereunder, except as provided in this Section, (2) correspond or otherwise communicate with the owners or occupants of property within the District or others interested in the District's business, except to provide meeting information and copies of District records, or (3) solicit or accept quotations or bids for goods and services to be procured by the District, except to provide meeting information and copies of District records.

SECTION 9. SEVERABILITY. If any portion of this Ordinance is for any reason held or declared to be unconstitutional, inoperative or void, such holding shall not affect the remaining portions of this Ordinance. If this Ordinance or any provision thereof shall be held to be inapplicable to any person, property or circumstances, such holding shall not affect its applicability to any other person, property or circumstances.

SECTION 10. EFFECTIVE DATE. The Clerk shall file a certified copy of this Ordinance with the Department of State within ten days of its adoption. This Ordinance shall take effect immediately upon its filing with the Department of State.

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DULY ENACTED this 21 day of February, 2011.

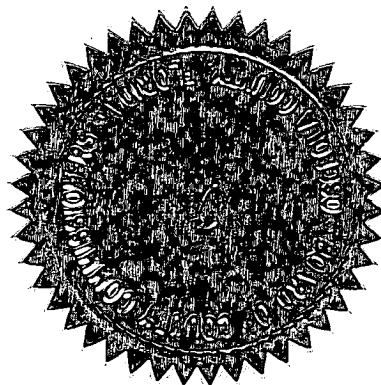
OSCEOLA COUNTY, FLORIDA

By: _____

Chairman/Vice-Chairman
Board of County Commissioners

ATTEST:

Tammy Ross
Clerk/Deputy Clerk to the Board
(SEAL)
Ordinance #11-03



NOTICE THAT THIS ORDINANCE HAS BEEN
FILED WITH THE FLORIDA STATE BUREAU
OF ADMINISTRATIVE CODE.

ON February 24 2011

BY Debra A. Davis
DEPUTY CLERK OF THE BOARD

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