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FILED
SID J. WHITE
NOV 14 1991
CLERK, SUPREME COURT.
By _____
Chief Deputy Clerk

**IN THE SUPREME COURT
OF THE STATE OF FLORIDA**

**PETER FORSYTHE and
ALISABETHE JERGENS FORSYTHE,**

Appellants,

CASE NO. 78,654

v.

**LONGBOAT KEY BEACH
EROSION CONTROL DISTRICT,**

Appellees.

ANSWER BRIEF OF APPELLEE

Appeal from Final Order
of Manatee County Circuit
Court

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TABLE OF CONTENTS

Table of Citations ii
Statement of the Case and of the Facts 1
Summary of Argument. 2
Argument 3

POINT I

THE CIRCUIT COURT CORRECTLY HELD THAT THE
LONGBOAT KEY BEACH EROSION CONTROL DISTRICT
IS A DEPENDENT SPECIAL DISTRICT 3

POINT II

THE CIRCUIT COURT CORRECTLY HELD THAT THE LONGBOAT KEY
BEACH EROSION CONTROL DISTRICT WAS VALIDLY CREATED 9

POINT III

THE CIRCUIT COURT CORRECTLY HELD THAT THE
ORDINANCE AND THE AMENDING ORDINANCE WERE
VALIDLY ADOPTED. 15

Conclusion 18

Certificate of Service 19

TABLE OF CITATIONS

CASES

| | |
|---|--------|
| <u>City of Boca Raton v. Gidman</u> , 440 So.2d 1277 (Fla. 1983) | 4 |
| <u>City of Hallandale v. State ex rel. Zachar</u> , 371 So.2d 186 (Fla. 4th DCA 1979) | 15, 16 |
| <u>Concerned Citizens of South Kenai Peninsula v. Kenai Peninsula Borough</u> , 527 P.2d 447 (Alaska 1974). | 12, 17 |
| <u>Coon v. Board of Public Instruction</u> , 203 So.2d 497 (Fla. 1967). | 13 |
| <u>County of Palm Beach v. State of Florida</u> , 342 So.2d 56 (Fla. 1976) | 13 |
| <u>Department of Highway Safety and Motor Vehicles v. Meck</u> , 468 So.2d 993 (Fla. 5th DCA 1985). | 8 |
| <u>Florida State Racing Commission v. McLaughlin</u> , 102 So.2d 574 (Fla. 1958) | 4 |
| <u>Garner v. Ward</u> , 251 So.2d 252 (Fla. 1971) | 4 |
| <u>Gray v. Golden</u> , 89 So.2d (Fla. 1956) | 9 |
| <u>Green v. Home News Publishing Co.</u> , 90 So. 2d 295 (Fla. 1956). | 8 |
| <u>Howarth v. City of Deland</u> , 158 So. 294 (Fla. 1934). | 4 |
| <u>Hudson Pulp & Paper Corp. v. County of Volusia</u> , 348 So.2d 45 (Fla. 1st DCA 1977) | 10 |
| <u>Jackson v. Consolidated Government of the City of Jacksonville</u> , 225 So.2d 497 (Fla. 1969) | 9, 10 |
| <u>Lipe v. City of Miami</u> , 141 So.2d 758 (Fla. 1962). | 15 |
| <u>People ex rel. Hanrahan v. Caliendo</u> , 277 N.E.2d 319 (Ill. 1971). | 11 |
| <u>Realty Bond & Share Co. v. Englar</u> , 143 So. 152 (Fla. 1932) | 4 |
| <u>Rich v. Ryals</u> , 212 So.2d 641 (Fla. 1968). | 10 |
| <u>State v. County of Sarasota</u> , 155 So.2d 543 (Fla. 1963) | 12 |
| <u>State v. Daytona Beach Racing and Recreational Facilities District</u> , 89 So.2d 34 (Fla. 1956). | 13, 17 |
| <u>State v. Sullivan</u> , 116 So. 255 (Fla. 1928) | 4 |
| <u>Town of Medley v. State</u> , 162 So.2d 257 (Fla. 1964). | 11 |

Tucker v. Underdown, 356 So.2d 251 (Fla. 1978) 11

Wakulla County v. Davis, 395 So.2d 540 (Fla. 1981) 4

Wright v. Proffitt, 198 S.E. 2d 275 (S.C. 1973) 11

FLORIDA CONSTITUTION

Art. III, Fla. Const. 16

Art. VIII, Fla. Const. 10

Art. VIII, Section 2(b), Fla. Const.. . . . 9

STATUTES

Chapter 166, Part I, Fla.Stat. (1989)9
Chapter 189, Fla.Stat. (1989) 2, 3, 5, 9
Section 166.021, Fla.Stat. (1990).9
Section 166.041(2), Fla.Stat. (1989) 15, 16
Section 189.402, Fla.Stat. (1989).16
Section 189.402(3)(b), Fla.Stat. (1989)7
Section 189.402(6), Fla.Stat. (1989)7
Section 189.403(2), Fla.Stat. (1989)2, 3, 5, 6, 18
Section 189.403(3), Fla.Stat. (1989)2, 3, 4, 5, 18
Section 189.4041, Fla.Stat. (1989)9

OTHER AUTHORITIES

3 Fla.Jur. 2d (Law. Co-op. Pub) 31313

STATEMENT OF THE CASE AND OF THE FACTS

Appellee, Longboat Key Beach Erosion Control District, generally adopts the Statement of the Case and of the Facts included in the Initial Brief Of Appellant.

Appellee notes, however, that Appellant has included in its Appendix, at A-87, a photocopy of a newspaper page which describes an unofficial, informal straw ballot relating to a beach renourishment project (which may or may not be the same project as the one approved by official action of the Appellee which is the subject of this litigation).

Appellee also repeatedly refers to this page of the Appendix in argument, inferring impropriety on the part of Appellee (pp. 22 and 25, Appellants Initial Brief).

This newspaper page was not put in evidence at the trial, nor was there any other evidence introduced at trial, or properly included in Appellant's Appendix on this appeal, relating to the subject matter discussed on this page, and Appellee strongly urges that it be disregarded as outside the scope of the record and this appeal.

SUMMARY OF ARGUMENT

The circuit court correctly held that Appellee is a dependent special district meeting all of the criteria of Section 189.403(2), Fla.Stat. (1989). Section 189.403(3) of the same statute is ambiguous as applied to the Town of Longboat Key, reflecting that the Legislature did not contemplate the special geographic situation of the Town of Longboat Key, a general purpose local government, located in more than one county. The District is clearly dependent upon and accountable to a single municipality, within the criteria established in the statute. The purposes of the Uniform Special District Accountability Act of 1989, which comprises Chapter 189, Fla.Stat., are clearly fulfilled by and consistent with classification of Appellee as a dependent special district.

The circuit court's holding that the district was validly created by Ordinance 90-21, and that Ordinance 91-06 validly amends Ordinance 90-21, should be upheld. Any alleged confusion created by the map references in Ordinance 90-21 were correctly found by the circuit court, if it existed at all, not to be sufficient to invalidate Ordinance 90-21 or the bond election. The amending provisions in Ordinance 91-06 meet the tests established by this court for amending legislation, in that the meaning of the amendment can be determined from within the four corners of the amending ordinance, without reference to the original ordinance.

No reversible error having been committed by the circuit court, the court's Final Judgment validating Appellee's Bonds should be sustained.

ARGUMENT

I

THE CIRCUIT COURT CORRECTLY HELD THAT THE LONGBOAT KEY BEACH EROSION CONTROL DISTRICT IS A DEPENDENT SPECIAL DISTRICT.

The circuit court found in paragraph 2 of its Final Judgment rendered on August 13, 1991 that:

The District is a "dependent district" under Chapter 189, Fla.Stat. (1989). Although the legislature may not have contemplated the possibility that a municipality could be located in parts of two counties, the District is dependent because it is located in a single municipality and otherwise meets the statutory test for a "dependent district".

Appellant cites the statutory language defining an "independent district" in Section 189.403(3), Fla.Stat. (1989) and argues that it is plain and its meaning clear; therefore, there is no need to resort to rules of statutory construction, and, since the District includes part of Manatee County and part of Sarasota County, it could only be created as an independent district.

To the contrary, the statutory language is ambiguous, as applied to the facts in this case, because it is obvious that neither the Legislature nor the Florida Advisory Council on Intergovernmental Relations ("ACIR") ever considered the possibility that a single municipality could overlap county boundaries.

An ambiguity exists because the District meets the statutory criteria for both a dependent special district under Section 189.403(2), Fla.Stat. (1989) and an independent special district under Section 189.403(3), Fla.Stat. (1989) (second sentence only). The only circumstance in which both definitions could be met is precisely this one, because all four of the criteria in Section 189.403(2), Fla.Stat. (1989) for a dependent district refer to the "governing body of a single county or a single municipality" (emphasis added). The Legislature and ACIR obviously assumed that the phrase "a district that includes more than one county" and the quoted phrase

in the dependent district definition were mutually exclusive. That is true, except for the Town of Longboat Key, a single municipality which is located in two counties.

Appellant urges the court to examine Section 189.403(3), Fla.Stat. (1989) in isolation and argues that the language of that section is unambiguous and therefore the statute is not subject to judicial interpretation. However, one sentence of a statute cannot be read in isolation. This court, referring to the rule of statutory construction relied upon by Appellant, states:

This rule is subject to the qualification that if a *part* of a statute appears to have a clear meaning if considered alone but when given that meaning is inconsistent with other parts of the *same statute* or others in *pari materia* the Court will examine the entire act and those in *pari materia* in order to ascertain the overall legislature intent.

Florida State Racing Commission v. McLaughlin, 102 So.2d 574, 575-576 (1958).

A well settled rule of statutory construction is that the elemental function of the court is to ascertain and give effect to the Legislative intent in enacting a statute. This Court has stated this rule in City of Boca Raton v. Gidman, 440 So.2d 1277, 1281 (Fla. 1983) as follows: "[i]t is the essence of the law. The primary rule of construction is to ascertain and give effect to that intent. State v. Sullivan, 95 Fla. 191, 116 So. 255 (1928). No literal interpretation should be given that leads to an unreasonable or ridiculous conclusion or to a purpose not designated by the lawmakers".

Other useful guiding principles are also found in Boca Raton, 440 So.2d at 1282:

A law should be construed together with any other law relating to the same purpose such that they are in harmony. Wakulla County v. Davis, 395 So.2d 540 (Fla.1981); Garner v. Ward, 251 So.2d 252 (Fla.1971). Courts should avoid a construction which places in conflict statutes which cover the same general field. Howarth v. City of Deland, 117 Fla. 692, 158 So. 294 (1934). The law favors a rational, sensible construction. Realty Bond & Share Co. v. Englar, 104 Fla. 329, 143 So. 152 (1932).

Reading isolated language of the statute without considering ambiguities created by conflicting provisions and without examining Legislative intent would work a unique injustice upon the Town of Longboat Key, while not fulfilling the purpose designated by the lawmakers. Clearly, holding Appellee to be a dependent district is a rational, sensible construction of subsections (2) and (3) of Section 189.403, Fla.Stat. (1989), and avoids a construction which places the two subsections in conflict. As will be seen in Appellee's analysis of the purposes of Chapter 189, the law is intended to favor creation of dependent, not independent, districts. Therefore, where the criteria for a dependent district and an independent district are both met, the construction of the law which allows creation of a dependent district should be adopted.

Requiring the Appellee District to be an independent district, merely because of an incidental and immaterial geographic anomaly, is unnecessary to carry out the purposes of Chapter 189, Fla.Stat. (1989).

The Act is entitled the "Uniform Special District Accountability Act of 1989" (emphasis added), and, as observed by Appellant, appears to be a legislative response to the ACIR's report entitled "Special District Accountability in Florida, 87-5, November, 1987" (the "ACIR Report") and recommendations entitled "ACIR Special District Accountability Recommendations and Rationales, 87-6, November, 1987" (the "ACIR Recommendation"). The ACIR Report, at page xviii, and at pages 11 and 12 describes what is meant by accountability:

The term, accountability, conjures up the notion of accounting, audits, and peer reviews. Governmental accountability encompasses these, but its application in this report is much broader and multidimensional. In review, accountability refers to the linkages between elected or appointed officials, governmental entities and the citizenry. Some of these are established directly through elections. However, others are forged through reporting and noticing requirements, public meetings, and creation or modification procedures that require approval from officials external to a local governing entity. Accountability can be understood by considering, in greater detail, procedures that allow a local entity, in this case a special district, is [to be] responsive to

the demands of another local government, the State or the citizenry. [sic]

....

In order to determine whether a governmental entity is accountable, one must understand the term accountability. The term itself conjures up the notion of accounting, audits, and peer reviews. Accountability encompasses these ideas, but its application in this report is much broader and somewhat multidimensional. It refers to the linkages between elected or appointed officials and another governmental body or the citizenry. According to a noted expert in political science, Ira Sharkansky, 'A government is accountable to the people to the extent that it pursues policies that are consistent with public desires.' (9) Consistency between the local officials or governing body and the governed of a local entity is essential in making the accountability linkages operable. Another interpretation is that local governments are accountable when they are responsive to the demands of another local government entity, the State, or the citizenry. This establishes a principle of control. Consistency helps foster responsiveness and subsequently control of government by the citizenry.

Accountability can be further understood by considering what actually allows a local entity, in this case, a special district, to be accountable. Broadly speaking, accountability should be understood by the way it is expressed or manifested in the requirements, both functions and procedures, to which it must conform. The procedures by which a special district is created, operated, and abolished must either be directly or indirectly responsive to the preferences of the citizenry or be held unaccountable. The role of special districts in local planning and millage determination are other indications of whether or not they are accountable. Both are indicative of the pattern of control exercised over districts. Both point to the link between district actions and public preferences.

There could be no greater linkage between the District and local elected officials, in this case the Town Commission of the Town of Longboat Key, than is created by Ordinance 90-21, in establishing the District as "dependent" under all the criteria of Section 189.403(2), Fla.Stat. (1989). The Town Commission is the governing body of the District, ex officio, and all accountability laws for reporting, notices, public meetings, and other rules applicable to municipalities, including levy of ad valorem tax millage, apply to the District. If the Legislature created the District, accountability

would be removed from Town Hall on Longboat Key to the Capitol in Tallahassee, reducing accountability, not increasing it.

The ACIR Report observes that districts which are classified as independent require special rules of accountability because "...independent status confers on the board of a special district rather broad authorities divorced from the scrutiny of other officials." ACIR Report, supra, at 6.

There is no need for a district which is created by, governed by, and entirely within a single municipality to be subjected to the Chapter 189 rules for independent district accountability because it cannot acquire any such authority divorced from the scrutiny of the Town Commission.

The Legislature itself included in its findings in Chapter 189 the following, at Section 189.402, Fla.Stat. (1989):

(3) The Legislature finds that: ...

(b) It is in the public interest that any independent special district created pursuant to state law not outlive its usefulness and that the operation of such a district and the exercise by the district of its powers be consistent with applicable due process, disclosure, accountability, ethics, and government-in-the-sunshine requirements which apply both to governmental entities and to their elected and appointed officials.

....

(6) The Legislature finds that special districts serve a necessary and useful function by providing services to residents and property in the state. The Legislature finds further that special districts operate to serve a public purpose and that this is best secured by certain minimum standards of accountability designed to inform the public and appropriate general-purpose local governments of the status and activities of special districts. It is the intent of the Legislature that this public trust be secured by requiring each independent special district in the state to register and report its financial and other activities. The Legislature further finds that failure of an independent special district to comply with the minimum disclosure requirements set forth in this chapter may result in action against officers of such district board.

The Appellee District, as a dependent district, already exercises its powers consistent with the goals of (3)(b), above, and already registers and reports its financial and other activities as a part of the activities of the Town of Longboat Key, consistent with the goals of (6) above.

Clearly, the Department of Community Affairs, which administers Chapter 189, saw no need to invoke the special requirements applicable to independent districts, because it has administratively classified Appellee as a dependent district after special legal review (Sonia Crockett's deposition, A-29) (Alfred Bragg's memorandum, A-66). Such determination, while not conclusive, is entitled to great weight under Florida law in interpreting ambiguous statutory language. Green v. Home News Publishing Co., 90 So.2d 295 (Fla. 1956); Department of Highway Safety and Motor Vehicles v. Meck, 468 So.2d 993 (Fla. 5th DCA 1985).

The Department's determination that the Rainbow Lakes District, referred to by Appellant, is independent is not inconsistent with its determination that Appellee is dependent. That District does not lie entirely within any single municipality or single county. Rainbow Lakes was actually created by the Legislature, which automatically makes it independent of counties and municipalities. While the Legislature has designated the Board of County Commissioners of Marion County as the governing body of the Rainbow Lakes District, the Board of County Commissioners is elected by Marion County voters, yet governs territory in Levy County, by Legislative directive. Appellee's governing body governs only territory whose residents elect Appellee's governing body. Thus, the accountability goals of Chapter 189 are met by Appellee as a dependent district, but by Rainbow Lakes only as an independent district.

Appellant has cause and effect misplaced. Appellant argues that merely because a district crosses county boundaries, it must necessarily have the independence and autonomy requiring the extra protections found in Chapter 189 for "independent special districts". Ordinarily, that is true, because ordinarily any district

which crosses county lines could not be under the control of any single county or any single municipality-- but not for this special situation where a single general-purpose local government, the Town of Longboat Key, also crosses county boundaries, and the District is included entirely within the Town and utterly dependent on it.

Holding Appellee to be a dependent district under the statute, which it plainly is in law and in fact, recognizes and gives effect to the purposes of Chapter 189, Fla.Stat. (1989), and the reality of the dependency of Appellee upon the Town of Longboat Key.

II

THE CIRCUIT COURT CORRECTLY HELD THAT THE LONGBOAT KEY BEACH EROSION CONTROL DISTRICT WAS VALIDLY CREATED.

The Town of Longboat Key has broad home rule powers under Art. VIII, Section 2(b), Fla. Const., and Part I of Chapter 166, Fla.Stat. (1989), the "Municipal Home Rule Powers Act", particularly Section 166.021, Fla.Stat. (1990). Municipalities are given the power to create dependent special districts under Section 189.4041, Fla.Stat. (1989), by adoption of a charter by ordinance. The ordinance establishing the Charter of Appellee was adopted by the governing body of the Town of Longboat Key as Ordinance 90-21 (Appellant's App. A-6).

In challenging the validity of the District, Appellant has a heavy burden. The Florida Supreme Court stated, in Jackson v. Consolidated Government of the City of Jacksonville, 225 So.2d 497, 502 (Fla. 1969):

As we proceed to a discussion of the legal issues, one must remain aware that (1) we have constitutional authority granting the Legislature power to consolidate, (2) a Charter created and passed by the Legislature and (3) overwhelmingly approved by the voters. The Legislature has wide latitude in exercising its functions under the Constitution. Its determinations carry a presumption of validity, and they will not be set aside unless they are defective beyond all reasonable doubt. The Supreme Court made this clear in Gray v. Golden, (1956) 89 So.2d 785, a case very similar to this one where the court wrote:

"Another thing we should keep in mind is that we are dealing with a constitutional democracy in which sovereignty resides in the people. It is their Constitution that we are construing. They have a right to change, abrogate or modify it in any manner they see fit so long as they keep within the confines of the Federal Constitution. The Legislature which approved and submitted the proposed amendment took the same oath to protect and defend the Constitution that we did and our first duty is to uphold their action if there is any reasonable theory under which it can be done. This is the first rule we are required to observe when considering acts of the Legislature, and it is even more impelling when considering a proposed constitutional amendment which goes to the people for their approval or disapproval." (*quoted in Jackson*, 225 So.2d at 502)

Stated another way, in Rich v. Ryals, 212 So.2d 641, 643 (Fla. 1968), "[i]t has long been the policy of this Court in the interpretation of statutes where possible to make such an interpretation as would enable the Court to hold the statutes constitutional."

In Hudson Pulp & Paper Corp. v. County of Volusia, 348 So.2d 45 (Fla. 1st DCA 1977), the First District Court of Appeal of Florida upheld the constitutionality of a Volusia County ordinance which established a municipal service district composed of the entire unincorporated area of Volusia County and provided for the levy of ad valorem taxes to fund the services provided. The ordinance was challenged by a corporation which alleged that its property, comprising some 23,000 acres, was of a rural character, used for forestry purposes, and therefore could not receive any benefits from the municipal services to be provided. The court upheld the ordinance, taking note of the similarity of home rule powers of municipalities and chartered counties under Art. VIII, Fla. Const.

The Hudson case stands for the proposition that the establishment of a special district is well within the home rule powers of the Town of Longboat Key under the Florida Constitution, and the wisdom of including or excluding property in a district, or of establishing the district at all, are well within the legislative wisdom of the appropriate legislative body, in this case, the governing body of the Town of Longboat Key. Since the Town of Longboat Key has the power to create a special district, and

has exercised that power in a lawful manner, i.e., the enactment of an ordinance within its constitutional and statutory authority, the wisdom of the establishment of the district and the wisdom of the establishment of particular boundaries for the District are questions to be resolved at the political level. Town of Medley v. State, 162 So.2d 257 (Fla. 1964).

In Tucker v. Underdown, 356 So.2d 251 (Fla. 1978), the Florida Supreme Court, in the context of a challenge to taxes imposed by governmental taxing units, rejected the argument that many of the properties taxed for solid waste disposal and for street lighting were improperly included in the taxing districts because they did not receive a real or substantial benefit from the services provided. The Florida Supreme Court held that no direct benefits must be shown.

Courts in other jurisdictions have granted local governmental bodies the same wide discretion.

In Wright v. Proffitt, 198 S.E.2d 275 (S.C. 1973), the court upheld the establishment of a special taxing "subdistrict" which included a great number of smaller areas which did not then receive sewer services from a larger sewer district. A property owner within the new subdistrict challenged his inclusion within the subdistrict on the ground that his property would be at least one mile from the nearest area to be served under a five year construction program. The Supreme Court of South Carolina upheld the legislative discretion used in establishing the subdistrict and held that the legislative finding would be reviewable "only for the purpose of determining whether the legislative action was palpably arbitrary or wholly unwarranted, a flagrant abuse, and by reason of its arbitrary character a mere confiscation of particular property."

In Illinois, the supreme court upheld establishment of a transportation district in People ex rel. Hanrahan v. Caliendo, 277 N.E.2d 319 (Ill. 1971). The court properly distinguished between a special district which would be funded from special

assessments and a special district such as the one in question on Longboat Key where the improvements would be paid for by general ad valorem property taxes. The court noted that even in the case of a special assessment district the validity of including land in the district would be upheld unless it was arbitrary, in that there was a total lack of benefit to the included property. The transportation district, on the other hand, funded from ad valorem taxes, was created "for the general benefit of the community" and did not depend for its validity on a showing of a special benefit to the property included. The court observed that in many instances improvements will be made which will incidentally benefit persons outside the boundaries of the political body making the improvements, and held that "there is no requirement that all persons who might benefit from an improvement such as this must be assessed for its construction." The Illinois court went on to hold that establishment of the District was not a violation of due process or equal protection under either the Illinois or U.S. Constitution.

Appellant has alleged that there is uncertainty with respect to the boundaries of the Beach Erosion Control District, and therefore the District should be held invalid.

A similar situation was adjudicated in Concerned Citizens of South Kenai Peninsula v. Kenai Peninsula Borough, 527 P.2d 447 (Alaska 1974). The Kenai Peninsula Borough Assembly enacted an ordinance creating a hospital service area, and a vote was held within the service area to approve bonds. The court held that creation of the service area was not an arbitrary and capricious act, under due process principles, and was therefore valid, even though a substantial percentage (as great as 35%) of the consumers of the hospital services were excluded from the hospital service area. The ordinance was also challenged on the ground that the boundaries were ambiguous and indefinite because three paragraphs of the legal description which described a portion of the service area were omitted from the ordinance. The court examined the minutes of the Borough Assembly, which clearly expressed the intent of

the Assembly to include the area, and held that the limits of the service area were not ambiguous when read in the light of the official minutes. The defect was held to be insufficient to void the establishment of the service area.

In Florida, similar reasoning was applied by the supreme court to uphold the validity of the Daytona Beach Racing and Recreational Facilities District. State v. Daytona Beach Racing and Recreational Facilities District, 89 So.2d 34 (Fla. 1956). There, the metes and bounds legal description did not comprise a closed area including lands lying only in Volusia County, and it was argued that, since the actual legal description embraced territory within Flagler County, the act of the Legislature of Florida creating the District was invalid. The court indulged the appropriate legal presumption in favor of validity and held that the Legislature clearly intended that the area include only lands lying in Volusia County, as it must have intended to enact a lawful act.

In this case, the circuit court found from the evidence, in paragraph 3 of the Final Judgment, "[t]he provisions of Ordinance 91-06 validly amend the provisions of Ordinance 90-21. Any alleged confusion created by the map references in 90-21 was slight (if at all) and not sufficient to invalidate the Ordinance or the election."

It is elementary that this finding of fact comes to the appellate court clothed with a presumption of correctness and will not be disturbed unless shown to be clearly erroneous. 3 Fla.Jur. 2d (Law. Co-op. Pub.) 313, and cases cited therein. Appellant has made no showing of error by the trial court.

It has long been held that after-the-fact validating legislation is perfectly proper to cure a procedural defect with respect to bond issues. County of Palm Beach v. State of Florida, 342 So.2d 56 (Fla. 1976); Coon v. Board of Public Instruction, 203 So.2d 497 (Fla. 1967) and State v. County of Sarasota, 155 So.2d 543 (Fla. 1963). The initial enactment by reference to a greatly reduced overall map which was incapable of reflecting individual property boundaries was intended to be, and clearly was

construed by the circuit court to be, a general area depiction and not a definitive map of District boundaries.

Under the foregoing authorities, it should be concluded by the court that the circuit court was correct in holding that establishment of the District boundaries pursuant to the ten large maps was and is the lawful determination of the Appellee's District boundary lines, and that such determination of boundary lines was an expression of lawful discretion of the governing body of the Town of Longboat Key, which was not "palpably arbitrary" or "wholly unwarranted", or "a flagrant abuse", and "does not by reason of its arbitrary character constitute a confiscation of anyone's property" within the District. Similarly, as the Illinois court noted, exclusion from the District of any property which may also benefit from the improvements is not a basis on which to invalidate the establishment of the Beaches Erosion Control District. Establishment of the District boundaries, utilizing the general guidelines set forth in the ordinance creating the District, was well within the discretion accorded the Town Commission.

III

THE CIRCUIT COURT CORRECTLY HELD THAT THE ORDINANCE AND THE AMENDING ORDINANCE WERE VALIDLY ADOPTED.

Appellant challenges the validity of Ordinance 91-06 of the Town (Appellant's App. A-10), contending that it purports to revise or amend parts of Ordinance 90-21 without setting out in full the revised or amended act, section or subsection in violation of Section 166.041(2), Fla.Stat. (1989). Appellant does not explain clearly how this violation occurs.

Section 166.041(2), Fla.Stat. (1989) has been interpreted in City of Hallandale v. State ex rel. Zachar, 371 So.2d 186 (4th DCA 1979). The Fourth District Court of Appeal observes that these procedural requirements of enactment of amendatory municipal ordinances are the same as the requirements of Art. III, Fla. Const., for enactment of amendatory state statutes, and holds that cases which interpret the corresponding portions of Article III are valid precedents for the interpretation of Section 166.041(2), Fla.Stat. (1989). These cases, cited in City of Hallandale, hold that the purpose of this requirement is to ensure that the legislative body considering the amendment, and the public, are informed of the nature and extent of the proposed changes in existing laws [ordinances]. Therefore, sufficient reference to the original act must be made so that an examination of the amending act [ordinance] itself will reflect the changes contemplated as well as their impact on the amended statute [ordinance]. The meaning of the provision published must be intelligible from its language, without reference to the original law [ordinance] to ascertain the meaning of the amendment.

In Lipe v. City of Miami, 141 So.2d 758 (Fla. 1962), the amendment added a new subsection (c) to an existing section of law. Without any introduction, the amending subparagraph listed certain new job titles. The effect of the amendment was to designate new job titles as "unclassified", but this meaning could not be determined

from the amending act - only by reference to the original law. Thus, the amendment violated the requirement of Article III, Fla. Const., which is identical to Section 166.041(2), Fla.Stat. (1989).

In the other case cited in City of Hallendale, a new statute of limitations was added by amendment which applied to "the surety bond required in this section", but no portion of the section describing the surety bond was republished.

The language and drafting style in Ordinance 91-06 is totally unlike that employed in either of the cases which held amendments invalid. The detailed recitals in Ordinance 91-06 described in minute detail the intent and purpose, and therefore the meaning, of the amendment, i.e., to clarify any ambiguities in the District's boundaries resulting from use of a small map of the District area which was attached as Exhibit A to Ordinance No. 90-21 creating the District, and to clearly restate the Town's original intent to establish the boundaries as drawn on the ten large scale maps displayed in Town Hall.

The recitals in Ordinance 91-06 state that the boundaries were established pursuant to Section 4 of Ordinance No. 90-21. Section 1 of Ordinance 91-06 provides that the boundaries shall be as set forth on the 10 large scale maps. Section 2 of Ordinance 91-06 provides that Section 4 of Ordinance 90-21 shall be deemed superseded to the extent of any inconsistencies.

It is clear from reading Ordinance 91-06 alone that its purpose and meaning can be ascertained without reading the text of Ordinance 90-21, which is referenced in and impliedly amended or superseded by Ordinance 91-06. Neither the Town Commission of Longboat Key, when considering the enactment of Ordinance 91-06, nor the public, could be misled or in doubt as to the nature and extent of the proposed changes embodied in Ordinance 91-06, standing alone.

Appellee notes that the validity of Ordinance 91-06 is not essential to the validity of the District. The court has inherent power to ascertain the intent of the

Town Commission when enacting Ordinance 90-21 and to interpret the boundaries of the District in such a manner as to effect the Town Commission's intent. This was done in State v. Daytona Beach Racing and Recreational Facilities District, 89 So.2d 34 (Fla. 1956) and in Concerned Citizens of South Kenai Peninsula v. Kenai Peninsula Borough, 527 P.2d 447 (Alaska 1974). References were made in those cases to unofficial sources. The circuit court's finding of fact as to the boundaries of the District has not been placed at issue on this appeal.

The Florida Supreme Court should uphold the circuit court's finding of validity of Ordinance 90-21 and Ordinance 91-06.

IV
CONCLUSION

The Florida Supreme Court should hold that Appellee is properly classified as a dependent special district under Section 189.403(2), Fla.Stat. (1989). Such a holding will recognize and give effect to the reality of Appellee's dependency upon the Town of Longboat Key, and is consistent with the perceived purposes of Chapter 189 as recommended to the Legislature by the Florida Advisory Council on Intergovernmental Relations and embodied in Section 189.402, Fla.Stat. (1989). The requirement in Section 189.403(3), Fla.Stat. (1989) that a District which includes more than one county is an independent special district, creates an ambiguity as to Longboat Key and clearly fails to take into account unique geographic circumstances present on the island of Longboat Key, where the Legislature has divided the Key in half, in establishing county boundaries, but maintained the geographic integrity of the Key when establishing the boundaries of the Town of Longboat Key, a general purpose unit of local government which overlaps both counties.

After review of the evidence presented, the circuit court found that Ordinance 91-06 validly amended the provisions of Ordinance 90-21. Any alleged confusion created by the map references in Ordinance 90-21 was found by the circuit court, if it existed at all, not to be sufficient to invalidate Ordinance 90-21 or the bond election. No error in this finding has been presented to this Court by Appellant. To the contrary, there is ample judicial precedent in Florida and other states for the upholding of both Ordinances and the bond election.

No error having been shown, the circuit court's Final Judgment validating the Bonds should be upheld.

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CERTIFICATE OF SERVICE

I hereby certify that I have furnished a copy of the foregoing by U.S. Mail to David W. Wilcox, Esquire, 308 Thirteenth Street West, Bradenton, Florida 34205, this 13th day of November, 1991.

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