FILE 2755 – December 6, 2019

CONFLICT OF INTEREST

COUNTY COMMISSIONERS BECOMING BOARD MEMBERS OF NONPROFIT ORGANIZATION OPERATING COUNTY PARK

To:  Mr. Frederick J. Elbrecht, County Attorney (Sarasota County)

SUMMARY:

A prohibited conflict of interest will not be created were a county commissioner to join the board of a nonprofit where an agreement to purchase services already exists between the two. Where the county has a reserved seat on the board of the nonprofit to which it may appoint a person and where the board members of the nonprofit are not compensated, there is a unity of interest between the county and the nonprofit such that Section 112.316, Florida Statutes, operates to negate any conflict of interest arising from Sections 112.313(3) and 112.313(7)(a), Florida Statutes, when the county and the nonprofit amend the purchasing agreement or negotiate a new agreement after the county commissioner joins the board of the nonprofit. Referenced are CEO 14-12, CEO 07-1, CEO 96-30, and CEO 84-63.

QUESTION:

Would a prohibited conflict of interest exist if a county commissioner becomes a director on the board of a nonprofit organization that has a preexisting agreement to sell services to the county and, thereafter, the agreement is altered or a new agreement is formed?

Under the particular circumstances presented, your question is answered in the
negative.

In your role as County Attorney, you inquire on behalf of members of the County Commission who seek to appoint a County Commissioner as an uncompensated director on the board of Suncoast Aquatic Nature Center Associates, Inc. (SANCA), a non-profit organization. According to its articles of incorporation, SANCA’s singular nonprofit purpose is to provide financial and managerial support for nature and aquatic activities at Nathan Bendersen Park, a County park that contains a multi-use sports venue. The County and SANCA executed an agreement in 2014 that granted SANCA the right and responsibility to manage and operate the park and its facilities with financial assistance from the County. The terms of the agreement provide for an automatic renewal of the agreement in 2019 with further extensions for three successive terms of ten years each at the election of SANCA, provided there are no material breaches of the agreement in the interim; according to you, the agreement is current and was automatically renewed for a ten-year term in 2019. In your inquiry, you explain that the County does not presently have a dedicated seat on SANCA’s board, but the County and SANCA have mutually agreed to terms of a new agreement that will supersede the current agreement, but the new agreement has not yet been formally approved by the County or SANCA. In the new agreement, you advise, the County will have the right to designate a member of the Board of County Commissioners or other person to be elected by the SANCA Board of Directors to be a member of the SANCA Board of Directors. The agreement further provides that it would be a breach of the agreement for SANCA not to approve the County's designated person as a member of its board.

Relevant to this inquiry, Section 112.313(3), Florida Statutes, provides:

DOING BUSINESS WITH ONE’S AGENCY.—No
employee of an agency acting in his or her official capacity as a purchasing agent, or public officer acting in his or her official capacity, shall either directly or indirectly purchase, rent, or lease any realty, goods, or services for his or her own agency from any business entity of which the officer or employee or the officer’s or employee’s spouse or child is an officer, partner, director, or proprietor or in which such officer or employee or the officer’s or employee’s spouse or child, or any combination of them, has a material interest. Nor shall a public officer or employee, acting in a private capacity, rent, lease, or sell any realty, goods, or services to the officer’s or employee’s own agency, if he or she is a state officer or employee, or to any political subdivision or any agency thereof, if he or she is serving as an officer or employee of that political subdivision. The foregoing shall not apply to district offices maintained by legislators when such offices are located in the legislator’s place of business or when such offices are on property wholly or partially owned by the legislator. This subsection shall not affect or be construed to prohibit contracts entered into prior to:

(a) October 1, 1975.
(b) Qualification for elective office.
(c) Appointment to public office.
(d) Beginning public employment.

The first part of this subsection operates to prevent a public officer from acting in his or her public capacity to “purchase, rent, or lease any realty, goods, or services” for his or her agency from any business entity in which he or she is an officer or director. The second part of this subsection prevents a public officer from acting in his or her private capacity to “rent, lease, or sell any realty, goods, or services” to his or her agency.

In CEO 07-1, we found no conflict of interest would arise from Section 112.313(3) for a member of a housing authority where the housing authority had entered into a long-term agreement with a law firm to purchase legal services and that law firm later merged with the member’s private employer—a separate law firm where the member was a partner. Even though the member was a public officer of the housing authority at the time the purchasing agreement for legal services was made, we reasoned that the member had not acted at the time of the purchase in a public capacity to
purchase from a business entity with which he held a leadership or ownership status and did not act in a private capacity to sell services to the housing authority because he was not a part of the private organization (firm) at the time of the purchase and sale. We cautioned, however, that a conflict would arise if a new purchasing agreement was enacted with the member’s firm, barring the application of certain exemptions.

With regard to the County Commissioners who would seek an appointment to the board of SANCA, as in CEO 07-1, we find that no conflict of interest would arise from such appointment under Section 112.313(3), under the preexisting agreement. Although the County and SANCA have an ongoing agreement whereby the County obtains property and facility management services from SANCA in exchange for funding, the Commissioners did not hold leadership positions in SANCA at the time that purchase was made. Further, even in the event that the newest proposed agreement between the County and SANCA is approved by both entities, the Commissioners only will be on one side of that agreement when it is formed.

If the current agreement is operative when one of the Commissioners joins the SANCA board, then, absent the application of Section 112.316, Florida Statutes, as discussed below, a conflict of interest would seem to arise under Section 112.313(3) once SANCA and the County attempt to amend the agreement or enact a superseding agreement. See CEO 07-1. However, if the County and SANCA formally approve the new proposed agreement, which effectively provides for the County to have a dedicated seat on SANCA's board to which it may designate a person of its choosing, then we find that there will be a unity of interest between the County and SANCA. As we found in CEO 84-63, CEO 96-30, and CEO 14-12, a seat on the board of directors of a nonprofit entity that is reserved for a political subdivision to appoint a person, potentially one of its
own members, indicates a unity of interest between the political subdivision and the nonprofit. This organizational alignment, however, must be paired with an actual alignment of interests. As we opined in CEO 14-12,

we can envision circumstances where private companies may work in concert with public entities, yet have different underlying core interests . . . [but] here we perceive an actual alignment of the parties' interests, and their relationship to be more a joint effort than a conflicting sale of services by one to another.

In this case, where both entities are invested in the proper stewardship and care of a County park, we perceive an actual alignment of the parties' interests that is not contraindicative of the organizational alignment indicated by the reservation of a board seat on the nonprofit for designation by the County. Therefore, under the situation presented, we find that Section 112.316, Florida Statutes,\(^1\) applies to negate any conflict under Section 112.313(3), if the County and SANCA approve the new agreement as you describe.

We also note that we do not find the prohibition against conflicting employment or contractual relationships in Section 112.313(7)(a), Florida Statutes, to be applicable. See Section 112.316, Florida Statutes.

Your inquiry is answered accordingly.

KBR/sjz/vlk

cc: Frederick J. Elbrecht, Esq.

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\(^1\) Section 112.316, Florida Statutes, provides: Construction.—It is not the intent of this part, nor shall it be construed, to prevent any officer or employee of a state agency or county, city, or other political subdivision of the state or any legislator or legislative employee from accepting other employment or following any pursuit which does not interfere with the full and faithful discharge by such officer, employee, legislator, or legislative employee of his or her duties to the state or the county, city, or other political subdivision of the state involved.
VIA ELECTRONIC MAIL

The Florida Commission on Ethics
325 John Knox Road
Building E, Suite 200
Tallahassee, FL 32317
Attn: Chris Anderson, Executive Director

RE: Request for Formal Commission on Ethics Advisory Opinion

Dear Mr. Anderson:

On behalf of the Sarasota County Board of County Commissioners (the “Board”), the undersigned requests a formal Florida Commission on Ethics Advisory Opinion predicated on the following:

**Background**

The Board wishes to appoint a Board member to serve on the board of directors of Suncoast Aquatic Nature Center Associates, Inc. (“SANCA”) as an uncompensated, voting member. At this time, it is unknown which Board member the Board would appoint, and it would be likely that the Board member appointed to the SANCA board would change from year to year.

SANCA, a non-profit organization, was formed voluntarily by a group of community leaders with the express purpose of providing funding and management of the nature and aquatic activities in Sarasota County’s Nathan Benderson Park (the “Park”). A copy of the Articles of Incorporation and Amended and Restated Articles of Incorporation stating this purpose are attached hereto.
Sarasota County (the “County”) has an operating and license agreement with SANCA, outlining the roles and responsibilities of each party regarding the operation and maintenance of the Park. Copies of relevant documents including the license and operating agreement and subsequent amendments are attached hereto. Additional documents and information can be provided to the attorney assigned by the Commission on Ethics, if requested.

**Question Presented**

Would a prohibited conflict of interest be created where a commissioner appointed by the Sarasota Board of County Commissioners serves as an uncompensated director of the SANCA board of directors?

**Analysis**

Section 112.313(7)(a), F.S. is potentially applicable to this inquiry and provides in relevant part:

CONFLICTING EMPLOYMENT OR CONTRACTUAL RELATIONSHIP. No public officer or employee of an agency shall have or hold any employment or contractual relationship with any business entity or any agency which is subject to the regulation of, or is doing business with, an agency of which he is an officer or employee....

The first part of Section 112.313(7)(a), F.S. prohibits an individual from being employed by an agency that is regulated by, or that is doing business with, his or her public agency. In this case, because the Board member would not be compensated for serving on SANCA’s board of directors, the Board member would not have an employment or contractual relationship with SANCA for purposes of Section 112.313(7)(a). The Commission on Ethics has consistently determined that serving as a volunteer or unpaid director of a non-profit does not amount to an employment or contractual relationship under Section 112.313(7)(a), F.S. (See, for example, CEO 83-70, CEO 89-59, and CEO 92-31). Thus, notwithstanding whether the Board regulates SANCA and does business with them, Section 112.313(7)(a) would not apply to this situation.

The next potentially applicable statute that must be analyzed is Section 112.313(3), F.S. which prohibits a public officer from “doing business with one’s agency.” Section 112.313(3), F.S. provides in relevant part:

DOING BUSINESS WITH ONE’S AGENCY.—No employee of an agency acting in his or her official capacity as a purchasing agent, or public officer acting in his or her official capacity, shall either directly or indirectly purchase, rent, or lease any realty, goods, or
services for his or her own agency from any business entity of which
the officer or employee or the officer’s or employee’s spouse or
child is an officer, partner, director, or proprietor or in which such
officer or employee or the officer’s or employee’s spouse or child,
or any combination of them, has a material interest....

Unlike the provisions relating to conflicting employment and contractual relationships,
Section 112.313(3), F.S. does not depend on compensation or consideration, but can be applicable
to unpaid directors. If a Board member is appointed to serve on the SANCA board of directors,
the Board member may or may not be considered “doing business with one’s agency” because
Sarasota County has a license and operating agreement with SANCA for real property owned by
the County.

Even if the Commission on Ethics finds that the Board member serving on the SANCA
board of directors is “doing business with one’s agency” under Section 112.313(3), F.S., the
situation presented requires that it be read in conjunction with Section 112.316, F.S., that
demonstrates a unity of interest rather than a conflict of interest.

Section 112.316, F.S. provides:

CONSTRUCTION.—It is not the intent of this part, nor shall it be
construed, to prevent any officer or employee of a state agency or
county, city, or other political subdivision of the state or any
legislator or legislative employee from accepting other employment
or following any pursuit which does not interfere with the full and
faithful discharge by such officer, employee, legislator, or
legislative employee of his or her duties to the state or the county,
city, or other political subdivision of the state involved.

The Commission has stated that a unity of interest applies when (1) the individual public
officer or employee who also is serving in an additional capacity does not stand to benefit privately
from his or her additional service, (2) the individual is appointed to the organization's board
because of his or her public position, and (3) the organization was created for the benefit of the
individual's public agency. See, for example, CEO 81-40 (school board member serving as trustee
of Florida school boards association insurance trust), and CEO 06-26 (county tax collectors serving
as uncompensated directors of tax collectors association's service corporation). The instant
situation mirrors these requirements. The Board member serving on the SANCA board of directors
will not stand to benefit privately from his or her service on the SANCA board of directors and the
Board member will be appointed to SANCA’s board of directors solely because of his or her public
position. Finally, as stated in the SANCA Articles of Incorporation, SANCA was created for the
exclusive benefit of the County, to provide funding and maintenance of a County owned Park.
There are other, similar, organization boards that the Commission has found board members may serve on. For example, it is common for a county commission board member to sit as an uncompensated director of an Economic Development Corporation (“EDC”). The uncompensated service on the board of the EDC, a private non-profit organization, does not constitute a conflicting employment or contractual relationship under Section 112.313(7)(a). Likewise, no prohibited conflict of interest exists under Section 112.313(3), F.S. where a county commissioner serves on the board of directors of an economic development council that receives funding from the county because Section 112.316, F.S. applies to negate any conflict. (See, for example, CEO 14-12.) In CEO 14-12, when the Commission was presented with this same fact pattern, the Commission stated there was no conflict and rationalized their decision based on the goals of the county and the EDC as the same: to attract businesses and investments to the county, and develop jobs and the workforce within the county. The Board contends that a commissioner’s service on the EDC, found a unity of interest in CEO 14-12, is similar to the envisioned role of a Board appointed commissioner serving as an uncompensated director of the SANCA board of directors.

Conclusion

The Board understands that whether a Board member is permitted serve on an external organization’s board of directors is fact specific and analyzed at the time the Board wishes to appoint a member to another entity’s board. The Board also understands that whether the unity of interest is applicable is also dependent on the specific facts and determination of whether the organization and the County’s interests are aligned. Our analysis supports the conclusion that a unity of interests exists between the Board and SANCA that would allow a Board member to serve on the Board of Directors of SANCA. However, SANCA is a unique organization to Sarasota County and there are no published ethics opinions directly on point. As such, the Board has requested that the Sarasota County Office of the County Attorney submit this request for a formal opinion regarding whether this scenario is a conflict of interest, and if so, whether a unity of interest negates said conflict of interest.

The County respectfully requests that Commission staff provide a formal opinion to the questions presented. Grayden Schafer of your office has been in discussions with Christine Messier, Assistant County Attorney, on this matter and is familiar with the facts discussed. Please let me know if you need any additional documents or information. Both Ms. Messier and I are available to answer any questions you might have.

Thank you for your consideration of this request. I look forward to hearing from you.

Sincerely,

Frederick J. Elbrecht
Sarasota County Attorney
Dear Mr. Zuikowski,

This email is in response to your email dated October 31, 2019 requesting more information on the requested Formal Ethics Opinion by the Sarasota County Board of County Commissioners.

To answer your first question, the County does not currently have a dedicated seat on the board of SANCA. SANCA and the Sarasota County Board of County Commissioners have discussed adding a seat for a Sarasota County Commissioner on the board of SANCA. A mutually agreed upon provision has been proposed in the new agreement that will supersede the current agreement. That provision gives the County the right to designate a member of the Board of County Commissioners to be a member on the SANCA board. The language that was agreed upon is:

The County reserves the right to designate a member of the Board of County Commissioners or other person to be elected by the SANCA Board of Directors to be a member of the SANCA Board of Directors. Failure of the SANCA Board of Directors to do so shall constitute a default under this Agreement.

To address your second question, the agreement is current. The agreement provided for an automatic renewal in the absence of a breach. Sarasota County staff sent SANCA a letter acknowledging the automatic renewal on October 1, 2019. The renewal is for 10 years. SANCA and the County have been negotiating a new agreement that will supersede the current agreement upon approval by both boards. The new agreement is drafted and final, but has not been approved by either board yet.

Please let me know if you have any additional questions as you are looking into this matter.

Rick Elbrecht
County Attorney
Office of the County Attorney
1660 Ringling Blvd.
Sarasota, FL 34236
Telephone: (941) 861-7272
relbrecht@sfgov.net
Dear Mr. Elbrecht,

I have been assigned to your request for a formal ethics opinion and am trying to complete the opinion in advance of the 12/6 Commission meeting. To provide a complete opinion on the matter, I require some additional information, if you are able to provide it.

- Does the County have a dedicated seat on the board of SANCA to which it can appoint people of its choosing? If not, by what mechanism does the County seek to appoint a board member to SANCA?

- The Section 2.1 of the licensing agreement indicates that there was a renewal to occur not less than six months before September 30, 2019, pending completion of some construction and installation projects. Was the agreement renewed? If not, what is the status of the agreement?

Please email me your responses by November 7, 2019. If there is any additional information you wish to include, you may include that as well. Thank you for your time.

Sincerely,
Steven J. Zuilkowski

**Steven J. Zuilkowski**

*Attorney*

Florida Commission on Ethics

P.O. Drawer 15709

Tallahassee, FL 32317-5709

(850) 488-7864

(850) 488-3077 (Fax)

ethics.state.fl.us

Physical address:

325 John Knox Road

Building E, Suite 200

Tallahassee, FL 32303
**COR AMND/RESTATE/CORRECT OR O/D RESIGN**

SUNCOAST AQUATIC NATURE CENTER ASSOCIATES, INC.

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AMENDED AND RESTATE\nARTICLES OF INCORPORATION\nOF\nSUNCOAST AQUATIC NATURE CENTER ASSOCIATES, INC.

I, the undersigned, do hereby subscribe my name to these Amended and Restated Articles of incorporation for the purpose of creating a Corporation, not for profit in nature and purpose, in accordance with Chapter 617, Florida Statutes, as now in force or hereafter amended.

ARTICLE I
NAME, ADDRESS AND REGISTERED AGENT AND OFFICE

The name of this Corporation shall be SUNCOAST AQUATIC NATURE CENTER ASSOCIATES, INC., a Florida not-for-profit corporation (the "Corporation"). The address of the Corporation’s principal place of business, and its mailing address is 290 North Cattlemen Road, Sarasota, Florida 34243. The registered address of the Corporation’s registered agent is 290 North Cattlemen Road, Sarasota, Florida 34243, and the name of the Corporation’s registered agent is Paul Blackketter. The registered office and registered agent may be changed from time-to-time by the Board of Directors as authorized by law.

ARTICLE II
OBJECTIVES AND PURPOSES

The Corporation is organized exclusively for providing funding and managerial support for nature and aquatic activities at Nathan Benderson Park and for purposes within the meaning of the Internal Revenue Code ("IRC") Section 501(c)(3), including the making of distributions to organizations that qualify as tax exempt organizations under IRC Section 501(c)(3) or corresponding sections of any future federal tax code, and is authorized to exercise such powers as are in furtherance of its exempt status and for purposes for which a corporation may be formed under the Florida Not-For-Profit Corporation Act.

ARTICLE III
POWERS

This Corporation shall have and exercise all of the powers of non-profit corporations under the Laws of the State of Florida, but within the restrictions of IRC Section 501(c)(3), and which are convenient or necessary to effect the purposes of the Corporation.

LIMITATION ON POWERS:

1. No part of the assets or net earnings of the Corporation shall be distributable to, or inure to the benefit of its members, directors, officers or other private
persons, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article II hereof.

2. No substantial part of the organization's activities shall be the carrying on of propaganda or otherwise attempting to influence legislation.

3. The Corporation shall not directly or indirectly participate in, or intervene in (including the publishing or distribution of statements), any political campaign on behalf of or in opposition to any candidate for public office.

4. The Corporation may no pursue objectives or engage in activities which will characterize it as an action organization.

5. Notwithstanding any other provision of these Articles, the Corporation shall not carry on any other activities not permitted to be carried on: (a) by a corporation exempt from federal income tax under IRC Section 501(c)(3), or corresponding section of any future federal tax code, or (b) by a corporation, contributions to which are deductible under IRC Section 170(c)(2), or corresponding section of any future federal tax code.

ARTICLE IV
MEMBERS

The Corporation shall not have members.

ARTICLE V
TERM OF EXISTENCE

This Corporation shall have perpetual existence, or as determined earlier by the laws of the State of Florida, or by the vote of its Directors, as provided in the Bylaws of this Corporation.

ARTICLE VI
DISSOLUTION

The assets of the Corporation are dedicated to tax exempt educational and charitable purposes within the meaning of IRC 501(c)(3) described in Article II above. Upon the dissolution of the Corporation, all assets of the Corporation shall be distributed for one or more exempt purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code, i.e. charitable, educational, religious or scientific (or corresponding section of any future federal tax code), or shall be distributed to the federal government, or to a state or local government for public purpose. The determination required hereby shall be made by the Corporation's Board of Directors in their sole discretion, applying the guidelines set forth herein. Any such assets not disposed of shall be disposed of by
the Circuit Court of the county in which the principal office of the Corporation is then located, exclusively for such purposes or to such organization or organizations as the Court shall determine, which are organized and operated exclusively for such purposes.

ARTICLE VII
NAME AND ADDRESS OF INCORPORATOR

The name and address of the incorporator of these Amended and Restated Articles of Incorporation is:

Paul Blackketter
290 North Cattlemen Road
Sarasota, Florida 34243

ARTICLE VIII
DIRECTORS AND OFFICERS OF THE CORPORATION

The affairs of the Corporation shall be managed by its Officers and Board of Directors. The Officers of this Corporation shall be as follows: President, Secretary and Treasurer, and such other officers with such other duties and tenures as set forth and provided by the By-laws of the Corporation.

The Board of Directors shall consist of not less than three (3) Directors. The number may be increased as provided in the By-laws of the Corporation, but shall never be fewer than three (3). The names and addresses of the current Directors who are to serve as Directors until the next annual meeting of the Corporation or their successors are elected and qualified are:

Ron Shapiro
701 Brickell Ave Ste. 300
Miami, FL 33131

Bill Robinson
6720 Riverview Blvd West
Bradenton, FL 34209

Curtis Jordan
1800 Ben Franklin Dr. #1105
Sarasota, FL 34236

Joanne Fava
401 Commercial Court Suite E
Venice, FL 34292

Jerry Marlar
2362 Landings Circle
Bradenton, FL 34209

The names and addresses of the current officers who are to serve as officers until the next annual meeting of the Corporation or until their successors are elected and qualified are:

Paul Blackketter
Ron Shapiro
President
Secretary
ARTICLE IX
AMENDMENT OF THE ARTICLES OF INCORPORATION

A. The Articles of Incorporation may be altered, amended or repealed in whole or in part by two-thirds (2/3) vote of the entire Board of Directors of the Corporation at any duly-called and noticed regular or special meeting. Any Amendments of the Articles of Incorporation, upon the approval by the Secretary of State of Florida and upon filing in the office of the said Secretary of State and paying all required filing fees shall become and be taken as part of these Articles of Incorporation.

B. Notwithstanding the foregoing Section A, the officers or directors of the Corporation shall not cause any amendment or alteration of the Articles of Incorporation or Bylaws to be made which would alter the intention and purposes expressed in Article II or which would conflict with the provisions of Article III and Article VI of these Articles of Incorporation.

ARTICLE X
INDEMNIFICATION

The Corporation, to the fullest extent permitted by law, has the power to indemnify any person who was or is a party to any proceeding (other than an action by, or in the right of, the corporation), by reason of the fact that he or she is or was a director, officer, employee, or agent of the corporation or is or was serving at the request of the corporation as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise against liability incurred in connection with such proceeding, including any appeal thereof as more fully set forth in the Bylaws.

ARTICLE XI
AUTHORIZATION

The foregoing Amended and Restated Articles of Incorporation were approved and ratified and requisite number of votes cast by the Directors at a meeting held on September 16, 2015 in accordance with Section 617.0721 and 617.0824 of the Florida Statutes and the Corporation's Bylaws. Therefore, the Secretary of State is hereby requested to approve and file these Amended and Restated Articles of Incorporation in accordance with Chapter 617, Florida Statutes. There are no members.

Paul A. Blacketter, President/CEO

((U160000017886 3)))
Having been named as registered agent and to accept service of process for the above-stated Corporation at the place designated in this certificate, I hereby accept the appointment as registered agent and agree to act in this capacity. I further agree to comply with the provisions of all statutes relating to the proper and complete performance of my duties, and I am familiar with and accept the obligations of my position as registered agent.

[Signature]

Paul A. Blacketter
Florida Department of State  
Division of Corporations  
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ARTICLES OF INCORPORATION

OF

Suncoast Aquatic Nature Center Associates, Inc.

(A Not-For-Profit Corporation)

The undersigned Incorporator of these Articles of Incorporation, being a natural person competent to contract, is desirous of forming a Corporation Not-For-Profit, pursuant to Chapter 617 of the Laws of the State of Florida.

ARTICLE I - NAME

The name of this Corporation shall be:

Suncoast Aquatic Nature Center Associates, Inc.

ARTICLE II - PRINCIPAL OFFICE, REGISTERED OFFICE AND REGISTERED AGENT

The principal office of said Corporation shall be located at:

1945 Fruitville Road
 c/o Greater Sarasota Chamber of Commerce
 Sarasota, FL 34236

The mailing address of the Corporation shall be:

1945 Fruitville Road
 c/o Greater Sarasota Chamber of Commerce
 Sarasota, FL 34236

The Directors of the Corporation may change the location of the principal office of said Corporation from time to time. The registered office of the Corporation shall be located at:

22 S. Links Ave., Suite 300
 Sarasota, FL 34236

and the Registered Agent shall be Kenneth D. Doerr, Esq.
ARTICLE III - PURPOSES

NON-PROFIT PURPOSE: This Corporation is organized exclusively for providing funding and managerial support for nature and aquatic activities at Nathan Benderson Park and purposes within the meaning of the Internal Revenue Code ("IRC") Section 501(c)(3), including the making of distributions to organizations that qualify as tax exempt organizations under IRC Section 501(c)(3), or corresponding sections of any future federal tax code; and is authorized to exercise such powers as are in furtherance of its exempt status and for purposes for which a corporation may be formed under the Florida Not-For-Profit Corporation Act.

PURPOSES: To providing funding and managerial support for nature and aquatic activities at Nathan Benderson Park and purposes as the Board of Directors of the Corporation may determine from time to time; and to do all other things necessary or desirable in connection with the foregoing purposes.

ARTICLE IV - POWERS

This Corporation shall have and exercise all of the powers of non-profit corporations under the Laws of the State of Florida, but within the restrictions of IRC Section 501(c)(3), and which are convenient or necessary to effect the purposes of the Corporation.

LIMITATION ON POWERS:

1. No part of the assets or net earnings of the Corporation shall be distributable to, or inure to the benefit of, its members, directors, officers or other private persons, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article III hereof.

2. No substantial part of the organization's activities shall be the carrying on of propaganda or otherwise attempting to influence legislation.

3. The Corporation shall not directly or indirectly participate in, or intervene in (including the publishing or distribution of statements), any political campaign on behalf of or in opposition to any candidate for public office.

4. The Corporation may not pursue objectives or engage in activities which will characterize it as an action organization.

5. Notwithstanding any other provision of these Articles, the Corporation shall not carry on any other activities not permitted to be carried on: (a) by a corporation exempt from federal income tax under IRC Section 501(c)(3), or corresponding section of any future federal tax code, or (b) by a corporation, contributions to which are deductible under IRC Section 170(c)(2), or corresponding section of any future federal tax code.
ARTICLE V – QUALIFICATION OF MEMBERS
AND MANNER OF ADMISSION

1. The membership shall be open to all persons interested in the objectives of the Corporation. The initial members of the Corporation shall be:

Carl Weinrich
Ron Shapiro
John Cranor

2. The By-Laws of the Corporation may prescribe additional qualifications for membership and may provide for additional classes of members.

3. Prospective members shall be admitted to membership upon approval by the Board of Directors, according to procedures and limitations established in the By-Laws.

ARTICLE VI – TERM OF EXISTENCE

The term for which this Corporation is to exist shall be perpetual, unless sooner dissolved pursuant to the provisions of Florida Statutes, Chapter 617, as amended.

ARTICLE VII – DISTRIBUTION OF ASSETS UPON DISSOLUTION

The assets of the Corporation are dedicated to the exempt educational and charitable purposes within the meaning of IRC Section 501(c)(3) described in Article III above. Upon the dissolution of the Corporation, assets shall be distributed for one or more exempt purposes within the meaning of IRC Section 501(c)(3), or corresponding section of any future federal tax code, or shall be distributed to the federal government, or to a state or local government, for a public purpose as the Board of Directors shall determine. Any such assets not so disposed of shall be disposed of by the Circuit Court of the county in which the principal office of the Corporation is then located, exclusively for such purposes or to such organization or organizations, as said Court shall determine, which are organized and operated exclusively for such purposes.

ARTICLE VIII – NAME AND ADDRESS OF INCORPORATOR

The name and mailing address of the Incorporator of these Articles are as follows:

Name: Kenneth D. Doerr
Address: 22 S. Links Ave., Suite 300
Sarasota, FL 34236

ARTICLE IX – OFFICERS AND DIRECTORS

The affairs of this Corporation shall be managed by a governing Board called the Board of Directors, who shall be elected at the annual meeting of the Corporation. Vacancies on the Board of Directors may be filled until the next annual meeting, in such manner as provided by the By-
Laws. The officers shall be determined as provided in the By-Laws. They shall be elected by the Board of Directors. The officers and members of the Board shall perform such duties, hold office for such terms, and take office at such times as shall be provided by the By-Laws of the Corporation.

ARTICLE X – NAMES OF OFFICERS

The names of the officers who are to serve until the first appointment or election next following the filing of these Articles of Incorporation, pursuant to Florida Statutes, Chapter 617, as amended, are as follows:

Carl Weinrich, President
John Cranor, Secretary and Treasurer

ARTICLE XI – NAMES AND Addresses OF DIRECTORS

The number of Directors shall initially be three (3). The number may be increased as provided in the By-Laws of the Corporation, but shall never be fewer than three (3). The names and addresses of the persons who shall serve as directors until the first election are:

Name                  Address
Carl Weinrich         1945 Fruitville Rd.
                      c/o Greater Sarasota Chamber of Commerce
                      Sarasota, FL 34236

Ron Shapo            22 S. Links Ave., Suite 300
                      Sarasota, FL 34236

John Cranor          1945 Fruitville Rd.
                      c/o Greater Sarasota Chamber of Commerce
                      Sarasota, FL 34236

ARTICLE XII – AMENDMENT OF ARTICLES OF INCORPORATION

These Articles may be amended by a majority of the members present and voting at any regular or special meeting of the Corporation, provided, however, that these Articles of Incorporation shall not be amended unless written notice is first given of the proposed Amendment to each and every member of the Corporation ten (10) days prior to the regular or special meeting of the Corporation; provided, however, that any Amendment will not adversely affect the status of the Corporation as an organization qualifying under IRC Section 501(c)(3).

ARTICLE XIII – INDEMNIFICATION

The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil or
criminal, administrative or investigative (whether or not by or in the right of the Corporation), by reason of the fact that he or she is or was a director or officer of the Corporation, against any and all expenses (including attorneys’ fees, Court costs and appellate costs and fees), judgments, fines and amounts paid in settlement incurred by him or her in connection with such action, suit or proceeding, except for an officer or director who is adjudged guilty of willful misfeasance or willful malfeasance in the performance of his or her duties. Such right of indemnification shall continue as to a person who has ceased to be a director or officer and shall inure to the benefit of the heirs and personal representatives of such person. Provided, however, that, if any past or present officer or director sues the Corporation, other than to enforce this indemnification, such past or present director or officer instituting such suit shall not have the right of indemnification hereunder in connection with such suit. The Corporation is authorized to purchase insurance to provide funds for the indemnification hereinabove set forth, and, if such insurance is purchased but the proceeds of the same are not sufficient to cover the cost of indemnification, then the deficiency shall be paid from Corporation funds. If there are no funds available to pay the cost of the indemnification or deficiency resulting from insufficient insurance coverage, then the Board of Directors shall assess the membership to cover such costs. This indemnification is an absolute right, and such assessments shall be made notwithstanding any other provisions contained herein to the contrary.

IN WITNESS WHEREOF, the undersigned Incorporator has hereunto executed these Articles this 12th day of July, 2010, for the purpose of forming this non-profit corporation under the Laws of the State of Florida, and hereby makes and files these Articles of Incorporation in the office of the Secretary of State of the State of Florida and certifies that the facts herein stated are true.

KENNETH D. DOERR
INCORPORATOR

DATE: 7/14/10

Kenneth D. Doerr, Esq.
REGISTERED AGENT