

LAW OFFICES

BECKER & POLIAKOFF, P.A.

The Colonnades
13515 Bell Tower Drive, Suite 101
Myers, Florida 33907

Collier Place I
3003 Tamiami Trail North, Suite 210
Naples, Florida 34103

Phone: (941) 433-7000 Fax: (941) 433-5900
Toll Free: (800) 462-7777
Internet: <http://www.becker-poliaoff.com>

Phone: (941) 461-9115 Fax: (941) 461-9114
Toll Free: (800) 522-7777
Internet: <http://www.becker-poliaoff.com>

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December 17, 1996

Division of Corporations
P.O. Box 6327
Tallahassee, FL 32314

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-12/19/96--01049--004
*****35.00 *****35.00

Re: Spanish Wells Community Association, Inc.

Dear Sir/Madam:

Enclosed please find the Articles of Amendment to the Articles of Incorporation for the above-referenced Association, as well as a check in the amount of \$1,000.00 to cover the cost of filing.

I have also enclosed an additional copy of the Articles of Incorporation for you to stamp with the appropriate filing data. Please return this copy in the envelope provided herein for your convenience.

Very truly yours,

Joanne M. Henthorn
Joanne M. Henthorn, Secretary
to Joseph E. Adams

/jmh

Enclosure (as stated)

APPROVED
AND
FILED

SECRETARY OF STATE
TALLAHASSEE, FLORIDA
DEC 19 1996

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12-18-96

Amended and Restated

**ARTICLES OF INCORPORATION
OF
SPANISH WELLS COMMUNITY ASSOCIATION, INC.**

Pursuant to the provisions of Section 617.1006, Florida Statutes, the undersigned corporation adopts the following Articles of Amendment to its Articles of Incorporation.

First: The Articles of Incorporation of Spanish Wells Community Association, Inc. have been amended and restated in their entirety. A copy of the Amended and Restated Articles of Incorporation for Spanish Wells Community Association, Inc. is hereto attached.

Second: The date of adoption of the Amended and Restated Articles of Incorporation was November 19, 1996.

Third: Adoption of Amendment:

- ☐ The Amended and Restated Articles of Incorporation were adopted by the members and the number of votes cast for the amendment was sufficient for approval.
- ☒ There are no members or members entitled to vote on Amended and Restated Articles of Incorporation. The Amended and Restated Articles of Incorporation were adopted by the Board of Directors.

**SPANISH WELLS COMMUNITY
ASSOCIATION, INC.**

By: James C. McLaughlin, Jr.
James C. McLaughlin, President

Dated: Nov 20 1996

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SECRETARY OF STATE
TALLAHASSEE, FLORIDA

APPROVED
AND
FILED

AMENDED AND RESTATED ARTICLES OF INCORPORATION

FOR

SPANISH WELLS COMMUNITY ASSOCIATION, INC.

The undersigned acting as incorporator of a homeowners' association created pursuant to chapter 617, Florida Statutes, adopts the following Amended and Restated Articles of Incorporation:

ARTICLE 1 NAME

1.01. The name of the corporation is Spanish Wells Community Association, Inc. (herein called the "Association").

ARTICLE 2 LOCATION

2.01 The principal place of business of the Association shall be 9801 Treasure Cay Lane, Bonita Springs, Florida.

2.02 The mailing address of the Association shall be 9801 Treasure Cay Lane, Bonita Springs, Florida 34135.

ARTICLE 3 EXISTENCE

3.01 The Association is to commence its corporate existence on the date of filing of these Articles of Incorporation with the Department of State of Florida and shall exist perpetually thereafter until dissolved according to law.

ARTICLE 4 PURPOSE

4.01 The specific purposes for which the Association is organized are as follows:

(a) To operate and maintain the surface water management system for the Community in accordance with permits from time to time issued by the South Florida Water Management District, and to own real and personal property lying within the common areas of the Community which are a part of such system;

(b) To own, operate, maintain, preserve, replace and repair the

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SECRETARY OF STATE
TALLAHASSEE, FLORIDA

roads, right-of-ways, and entry and boundary areas within the Community;

(c) To provide for the common security, health and welfare of the members of the Association and the residents of the Community;

(d) To serve as a "Homeowners' Association" as described in §617.301, Florida Statutes with all powers necessary or appropriate. This includes all future changes to Chapter 617, Florida Statutes;

(e) To levy upon the property within the Community on an equitable basis and collect from its Members assessments, including reasonable reserves, to defray the costs of the operation of the Association;

(f) To acquire by gift, purchase, or otherwise, and to own, build, improve, operate, repair, maintain and replace, lease, transfer, and otherwise dispose of, real property, buildings, improvements, fixtures and personal property in connection with the business and affairs of the Association; and

(g) To dedicate, sell or transfer all or any part of the real or personal property of the Association to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members.

(h) For the accomplishment of its purposes, the Association shall have all of the Common Law and Statutory Powers and duties of a corporation not-for-profit under the laws of the State of Florida, except as limited or modified by these Articles, the Declaration of Protective Covenants, the By-laws, or the Florida Not-For-Profit Corporation Act; and it shall have all of the powers and duties reasonably necessary to operate.

4.02 The Association is not organized for pecuniary profit or financial gain. All assets and income of the Association shall be used only for the purposes for which the Association is organized. No dividend may be paid and no part of the Association's income or profits shall be distributed to its Members, Directors or Officers. The Association may pay compensation in a reasonable amount to its Members, Directors and Officers for services rendered, may confer benefits upon its Members in conformity with its purposes, and, upon dissolution or final liquidation, may make distributions to its Members as permitted by the Florida Not For Profit Corporation Act.

4.03 This Association shall not exercise any architectural control over improvements in those areas in the Community which are subject to the jurisdiction of owner or condominium associations within those areas.

ARTICLE 5 MEMBERS

5.01 Every person or entity who is a record title owner of any Parcel of Real Estate within the boundaries of the Community shall be a Member of the Association. Any person or entity holding an interest in any Parcel of Real Estate merely as security for the performance of an obligation shall not be a Member of the Association. Membership in the Association is appurtenant to each Parcel of Real Estate within the Community and cannot be conveyed other than by conveyance of fee simple title to the Parcel of Real Estate.

5.02 If title to a Parcel of Real Estate within the Community is vested in a corporation, partnership or other legal entity, such entity may designate a natural person as representative of the entity. Such representative shall have all the same rights and privileges as any other natural person who is a Member.

5.03 The Association is organized on a nonstock basis.

ARTICLE 6 VOTING

6.01 Title to each Parcel of Real Estate within the Community shall include an indivisible and non-assignable vote which the owner or owners of such Parcel of Real Estate may cast with respect to any matter which may be voted upon by the Members of the Association.

6.02 The vote of a majority of a quorum represented at a duly convened meeting of the Members at which a quorum is present shall be binding upon the Association.

6.03 Thirty percent (30%) of the Members present (in person or by proxy) at a duly called meeting of the Members shall constitute a quorum. Proxies may be used to establish a quorum.

6.04 Members may vote by proxy for any matter that requires or permits a vote of the Members. Any proxy shall be effective only for the specific meeting for which originally given and any lawfully adjourned meetings thereof. A proxy is not valid for a period longer than ninety (90) days after the date of the first meeting for which it is given. A proxy is revocable at any time at the pleasure of the Member who executes the proxy.

ARTICLE 7 ASSESSMENTS

7.01 Any assessment levied by the Association shall be apportioned

among all Parcels of Real Estate in the Community at the same time and without regard to the assessed value of the parcels as determined by the Lee County Property Appraiser for *ad valorem* real estate tax purposes.

7.02 In no event shall the total amount of the assessment levied for any calendar year exceed the previously incurred and unpaid and reasonably anticipated costs to the Association for fulfilling its purposes.

7.03 Anything herein to the contrary notwithstanding, the assessment levied against Spanish Wells Golf and Country Club shall be twenty percent (20%) of the entire assessment.

7.04 Anything herein to the contrary notwithstanding, eighty percent (80%) of the entire assessment shall be divided by the total number of Parcels of Real Estate and levied against those Parcels of Real Estate subject to assessment other than the Parcels of Real Estate constituting Spanish Wells Golf and Country Club.

7.05 Each year the Board of Directors of the Association shall prepare a budget of the reasonably anticipated annual costs of operation of the Association, including provisions for previously incurred and unpaid costs and reserves for deferred expenses and capital replacements. The assessment shall be the amount determined by the budget.

ARTICLE 8 DIRECTORS

8.01. The corporate powers shall be exercised by and under the authority of, and the business and affairs of the Association shall be managed under the direction of, the Board of Directors elected by the Members by the method provided in the Bylaws.

8.02. In those instances where a vote of the Members is required or permitted, any and all of the powers and duties conferred or imposed upon the Board of Directors, by resolution of the Members adopted at a special meeting called for that purpose, may be exercised or performed to such extent, by such person or persons and upon such terms and conditions as shall be specified by the Members.

8.03. The Association shall have nine directors initially. The number of directors may thereafter be increased or decreased from time to time in accordance with the Bylaws of the association but in no event shall the number of directors be less than the number of Districts within the Community as established in the By-laws.

8.04. Directors need not be Members of the Association.

8.05 Directors of the Association shall be elected at the Annual Meeting of the Members in the manner determined by and subject to the qualifications set forth

in the Bylaws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the Bylaws.

8.06. The terms of the initial Board of Directors shall expire as provided for in Article 8.07 of this document. The terms of the Directors shall be for three years. One-third of the Directors shall be elected annually, or as provided for in the Bylaws of the Association, Article 4.06. If a vacancy shall occur by the death, resignation or any other reason the remaining Directors shall appoint a Member to serve out the remainder of the term of the absented Director.

8.07 The names, addresses and terms of the Board of Directors who shall hold office until their successors are elected and have taken office, as provided in the Bylaws are as follows:

<u>Director</u>	<u>Address</u>	<u>Term</u>
David A. McArdle	9801 Treasure Cay Lane Bonita Springs, FL 33923	3
Richard B. Kepley	9801 Treasure Cay Lane Bonita Springs, FL 33923	3
Douglas Young	9801 Treasure Cay Lane Bonita Springs, FL 33923	3
Donald R. Hodges	28344 Tasca Drive Bonita Springs, FL 33923	2
James C. McLaughlin	28441 Verde Lane Bonita Springs, FL 33923	2
Hal Rogers	28436 Highgate Drive Bonita Springs, FL 33923	2
William T. Murphy	9851 Costa Mesa Lane, #307 Bonita Springs, FL 33923	1
Joanna D. Boze	9801 Treasure Cay Lane Bonita Springs, FL 33923	1
Richard Hellwege	28499 Las Palmas Circle Bonita Springs, FL 33923	1

ARTICLE 9 OFFICERS

9.01 The affairs of the Association shall be administered by the Officers holding the offices designated in the Bylaws.

9.02 The Officers shall be elected by the Board of Directors of the Association, following the Annual General Meeting of the Members of the Association.

9.03 The Bylaws may provide for the removal of Officers, for the filling of vacancies and for the duties of the Officers.

9.04 The names and addresses of the Officers who shall serve until their successors are designated by the Board of Directors are as follows:

President	James C. McLaughlin
Vice President	Hal Rogers
Secretary	Richard Hellwege
Treasurer	Richard C. Gainer

ARTICLE 10 BYLAWS

10.01 The power to adopt, alter, amend or repeal Bylaws shall as stated in the By-laws.

ARTICLE 11 AMENDMENT

11.01 These Articles of Incorporation may be amended at any time by the affirmative vote of two-thirds (2/3rds) of the total number of Directors.

11.02 The provisions of Article 7, §7.01 of these Articles of Incorporation may not be amended without the express written consent of the Developer.

11.03 The provisions of Articles 7, §7.04 of these Articles of Incorporation may not be amended without the express written consent of the owner of Spanish Wells Golf and Country Club.

ARTICLE 12 DEFINITIONS

12.01 The following terms shall have the following meanings:

"Community" means the land in Sections 2 and 3, Township 48 South, Range 25 East, Lee County, Florida, more particularly described in the Declaration and

any other land which the Association may accept into the Community.

"Declaration" shall mean the Declaration of Protective Covenants for Spanish Wells Community recorded in the Public Records of Lee County, Florida, as from time to time amended.

"Developer" shall mean the beneficiaries of a certain trust created by a Declaration of Trust and Land Trust Agreement, dated June 22, 1978, and known as Trust No. 5089, and their successors and assigns.

"Parcel of Real Estate" shall mean those Parcels of Real Estate assessed by the Lee County Property Appraiser for purposes of levying *ad valorem* real estate taxes.

"Spanish Wells Golf and Country Club" shall mean the real property so designated and described in the Declaration.

ARTICLE 13 INITIAL REGISTERED AGENT AND STREET ADDRESS

13.01 The name of the initial registered agent of the Association is Joanna D. Boze, and the street address of the initial registered office of the Association is 9801 Treasure Cay Lane, Bonita Springs, Florida 34135.

ARTICLE 14 TRANSACTIONS IN WHICH DIRECTORS OR OFFICERS ARE INTERESTED

14.01 No contract or transaction between the Association and one or more of its Directors or Officers or between the Association and any other corporation, partnership, association or other organization in which one or more of its Officers or Directors are officers or directors or are financially interested shall be either void or voidable because of such relationship or interest because the Officer or Director is present at, or participates in, meetings of the board or committee thereof that authorized the contract or transaction, or solely because such Officer's or Director's votes are counted for such purpose, provided the relationship or interest is disclosed or known to the Board of Directors, the vote of the interested Director or Officer is not counted towards the votes of the Board of Directors necessary to authorize, approve or ratify the contract or transaction, and the contract or transaction is fair and reasonable to the Association at the time it is authorized. Common or interested directors may not be counted in determining the presence of a quorum at a meeting of the Board of Directors or a committee meeting thereof which authorizes, approves or ratifies such contract or transaction. No Director or Officer of the Association shall incur liability by reason of the fact that such Director or Officer may be interested in any such contract or transaction.

ARTICLE 15 INDEMNIFICATION

15.01. The Association shall defend, protect, hold harmless and indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending or contemplated action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that such person is or was a director, employee, officer or agent of the Association, against expenses (including attorneys' fees and appellate attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding, unless (a) a court of competent jurisdiction determines, after all available appeals have been exhausted or not pursued by the proposed indemnitee, that such person did not act in good faith, or in a manner such person reasonably believed to be in, or not opposed to, the best interests of the Association and with respect to any criminal action or proceeding, that such person had reasonable cause to believe the conduct was unlawful, and (b) such court further specifically determines that indemnification should be denied. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon plea of *nolo contendere* or its equivalent shall not, of itself, create a presumption that such person did not act in good faith and in a manner which such person reasonably believed to be in or not opposed to the best interests of the Association, and, with respect to any criminal action or proceeding, had reasonable cause to believe that the conduct was unlawful.

15.02 To the extent that a person who is or was a director, officer, employee or agent of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to above, or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses (including attorneys' fees and appellate attorneys' fees) actually and reasonably incurred in connection with such defense.

15.03 Expenses incurred in defending a civil or criminal action, suit or proceeding shall be paid by the Association in advance of the final disposition of such action, suit or proceeding upon the receipt of an undertaking by or on behalf of the affected director, officer, employee or agent to repay such amount unless it shall ultimately be determined that such person is entitled to be indemnified by the Association as authorized in this Article.

15.04 The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any bylaw, agreement, vote of members or otherwise, and shall continue as to a person who has ceased to be a director, officer, employee or agent, and shall inure to the benefit of the heirs and personal representatives of such person.

15.05 The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Association, or is or was serving, at the request of the Association, as a director,

officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person's status, whether or not the Association would have the power to indemnify such person against such liability under the provisions of this Article.

ARTICLE 16 DISSOLUTION

16.01 The Association may be dissolved by a vote of the Members holding at least sixty percent (60%) of the votes entitled to be cast at any regular or special meeting of the Members.

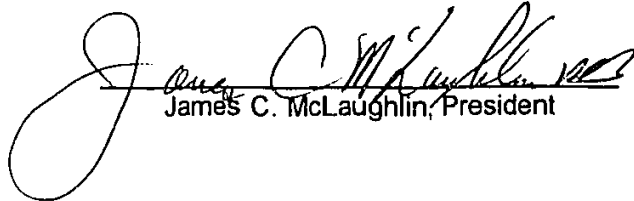
16.02 In the event of dissolution all responsibilities of the Association for maintenance and operation of the surface water management system and any conservation easements in and for Spanish Wells Community shall be transferred to a similar organization.

ARTICLE 17 STORM WATER MANAGEMENT SYSTEM

17.01 Any amendment of the Protective Covenants for the Spanish Wells Community or these Articles which would affect the Stormwater Management System, including the water management portions of common areas requires the prior approval of the South Florida Water Management District.

17.02 In the event of the dissolution of the Association the right, title and interest of the Association in real and personal property constituting a part of the Stormwater Management System shall be conveyed to an appropriate agency of local government.

The undersigned, as President of Spanish Wells Community Association, Inc., executed these Amended and Restated Articles of Incorporation on November 29, 1996


James C. McLaughlin, President