

ITEM #91

ADDITIONAL MATERIAL

Regular Meeting

NOVEMBER 10, 2020

SUBMITTED AT THE REQUEST OF

OFFICE OF THE COUNTY ATTORNEY



954-357-7600 · FAX 954-357-7641

MEMORANDUM

TO: Board of County Commissioners

FROM: Andrew J. Meyers, County Attorney /s/ Andrew J. Meyers

DATE: November 5, 2020

RE: Item 91 on the November 10 County Commission Meeting Agenda; Replacement Paragraph in the Comprehensive Emergency Management Plan

Item 91 would adopt an update to the County's Comprehensive Emergency Management Plan. This item was initially on an agenda earlier this year, but when we reviewed the draft plan, we had significant Sunshine Law concerns. Staff received from the state an extension of time to submit the plan, and the language has now been revised to address our Sunshine Law concerns.

As we discussed during individual agenda briefings, language we had drafted to comprise the third full paragraph on page 38 (beginning with the words "The County Commission") was revised by staff. The revision was discussed with me conceptually, but the revised language was not forwarded for legal review prior to the agenda being printed. We have concerns with that language that we have discussed with the County Administrator, and have drafted (with Ms. Henry's concurrence) the following language to replace that paragraph:

The County Commission has the authority to declare, limit, or terminate a state of emergency in all or part of Broward County. Except for declared emergencies resulting from windstorm events or declared emergencies otherwise expected to remain in effect, with any required renewal, for no more than fourteen (14) days (collectively, "exempt emergency declarations"), during a declared emergency, the County Administrator shall, whenever possible, prior to taking any action that directly and substantially affects the health, safety, or economic wellbeing of the County's residents, receive guidance from the County Commission at a publicly noticed workshop or, where appropriate, receive direction from the County Commission at a publicly noticed meeting. Except with regard to exempt

emergency declarations, when the County Administrator determines that action must be taken to protect the public before a public meeting (or workshop, as applicable) of the County Commission may reasonably be convened, the County Administrator is authorized to take the required action but shall provide written notice thereof to the County Commission either in advance of such action or as soon as practicable after such action is taken. County Commission guidance received by the County Administrator shall be given full consideration by the County Administrator but, absent a formal vote by the County Commission, shall be nonbinding, and any emergency order based on consideration of such guidance shall be issued by the County Administrator. Direction resulting from a formal vote of the County Commission shall be binding, and any emergency order based on such binding direction may be issued by the Mayor or any other member of the County Commission designated to issue it on behalf of the County Commission.

The Board's consideration of this item will be based on the plan printed as Exhibit 1 as amended by this replacement language. We have asked that a notation to this effect appear in the Monday Night Memo.

Certain Code provisions, including with regard to the calling of special meetings, will need to be amended to address changes resulting from the updated plan. I have asked Assistant County Attorney Joe Jarone to draft those proposed changes, and we expect to be able to present them for your consideration on a December or January meeting agenda.

Please contact Joe or me with any questions or concerns.

AJM/gf

c: Bertha Henry, County Administrator
Bob Melton, County Auditor