Item # 82(3)

Alternate Resolution

ADDITIONAL MATERIAL
Regular Meeting
JUNE 16, 2020

SUBMITTED AT THE REQUEST OF

COMMISSIONER TIM RYAN

RESOLUTION NO. 2020-

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, PROVIDING FOR A REFERENDUM ELECTION TO BE HELD ON NOVEMBER 3, 2020, THE DATE OF THE GENERAL ELECTION, TO DETERMINE WHETHER TO AMEND THE BROWARD COUNTY CHARTER TO PROVIDE THAT COUNTY ORDINANCES RELATING TO THE USE OF COUNTY PROPERTY TO DEVELOP SURTAX-FUNDED TRANSPORTATION IMPROVEMENTS WITH A REGIONAL IMPACT SHALL PREVAIL OVER MUNICIPAL ORDINANCES; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

(Sponsored by Commissioner Tim Ryan)

WHEREAS, in 2018, the electorate of Broward County ("County") approved a thirty-year Regional Transportation System Sales Surtax (the "Transportation Surtax") to fund planning, development, operation, and maintenance of roads and bridges, bus systems, fixed guideway rapid transit systems, and on-demand transportation services, designed to reduce traffic congestion and to increase and improve transportation options available countywide;

WHEREAS, the proceeds of the Transportation Surtax will be used to fund critical transportation projects and facilities, such as light rail and express transit equipment and facilities, park-and-ride lots, and other mass transit options for residents and visitors;

WHEREAS, in order to utilize the Transportation Surtax funding to provide maximum benefit in improving countywide transportation, a regional approach is necessary to ensure optimal available sites are utilized for critical transportation projects necessary to ensure countywide access;

1   WHEREAS, many Transportation Surtax-funded projects will serve and benefit the

2 residents of more than one municipality and therefore may be subject to overlapping

3 jurisdictions and redundant or conflicting requirements for municipal zoning and

4 permitting approvals;

5   WHEREAS, municipalities currently have the ability to effectively block the siting

6 of critical regional facilities, such as park-and-ride lots, to be used in connection with

7 emerging rail and express transit options;

8   WHEREAS, establishing a uniform regional approach to zoning and permitting

9 requirements for projects funded in whole or in part with Transportation Surtax proceeds

10 will expedite the development of such projects so improvements to the transportation

11 system can be completed as quickly as possible, thereby benefiting residents without

12 unnecessary delay and the inconvenience that results from unnecessarily prolonged

13 construction projects;

14   WHEREAS, Section 2.06 of the Broward County Charter ("Charter") authorizes the

15 Broward County Board of County Commissioners ("Board") to propose amendments and

16 revisions to the Charter, subject to referendum of the general electorate; and

17   WHEREAS, the Board desires to place an amendment to the Charter before the

18 voters at the November 3, 2020, General Election, NOW, THEREFORE,

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20   BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF

21 BROWARD COUNTY, FLORIDA:

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Coding: Words in struck-through type are deletions from existing text. Words in
underscored type are additions.

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1   Section 1.   Subject to an affirmative vote of the general electorate, Section 11.01

2 of the Charter, entitled Conflict of County ordinances with Municipal ordinances, is hereby

3 amended to read as follows:

4   **Sec. 11.01. Conflict of County ordinances with Municipal ordinances**

5   Any County ordinance in conflict with a Municipal ordinance shall not be effective

6 within the Municipality to the extent that a conflict exists regardless of whether such

7 Municipal ordinance was adopted or enacted before or after the County ordinance. A

8 County ordinance shall prevail over Municipal ordinances whenever the County acts with

9 respect to the following:

10   A.   Sets minimum standards protecting the environment through the prohibition

11 or regulation of air or water pollution, or the destruction of resources in the County

12 belonging to the general public.

13   B.   Land use planning.

14   C.   Regulates the conduct of elected officials, appointed officials, and public

15 employees through an enacted Code of Ethics.

16   D.   The development of public transportation improvements, funded in whole or

17 in part with transportation surtax proceeds, on County-owned or County-leased property,

18 regardless of the applicable transportation improvement project's commencement date,

19 including through County regulation of zoning, permitting, construction, operation, or

20 administration. This provision shall not apply to any County transportation improvement

21 project for which the construction commenced after June 16, 2020, and that is located in

22 an area zoned residential as of June 16, 2020, unless the municipality agrees to modify

23 such zoning or takes such other action that would permit the intended County use.

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1   In the event a County ordinance and a Municipal ordinance shall cover the same

2   subject matter without conflict, both the Municipal ordinance and the County ordinance

3   shall be effective.

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5   Section 2.   A referendum election is called for the General Election on

6   November 3, 2020, and at such other times as permitted for voting under Chapter 101,

7   Florida Statutes, to determine whether the Charter should be amended to allow County

8   ordinances to prevail over Municipal ordinances related to the utilization of County-owned

9   or County-leased property for surtax-funded transportation projects.

10

11   Section 3.   In accordance with Section 100.342, Florida Statutes, at least

12   thirty (30) days' notice of the referendum election shall be published by the Broward

13   County Administrator in a newspaper of general circulation in Broward County. The

14   publication shall be made at least twice, including once in the fifth week and once in the

15   third week prior to the week in which the referendum is to be held. The notice is hereby

16   attached as Exhibit A and made a part hereof.

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18   Section 4.   Said referendum election shall be held between the hours of

19   7:00 a.m. and 7:00 p.m. on Tuesday, November 3, 2020, and at such other days and

20   times as provided under applicable law, including early voting as provided by

21   Section 101.657, Florida Statutes, at polling places established in Broward County. All

22   registered and qualified electors in Broward County shall be eligible to vote in the

23   referendum election. Vote-by-mail ballots and early voting access for the referendum

24   shall be made available as provided by law.

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2   Section 5.   The election boards consisting of the clerks and inspectors

3   appointed to serve for the General Election on November 3, 2020, are hereby appointed

4   to serve in the referendum election in the manner provided by law.

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6   Section 6.   The Broward County Canvassing Board shall canvass the returns in

7   said election and shall certify the results of the referendum election as provided by law.

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9   Section 7.   The County Administrator shall furnish a certified copy of this

10 adopted Resolution to the Supervisor of Elections for Broward County on or before

11 July 1, 2020.

12

13   Section 8.   The title and summary of the referendum question to appear on the

14 General Election on November 3, 2020, as embodied in this enabling resolution, shall be

15 as follows:

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17 **COUNTY REGULATION OF THE DEVELOPMENT OF SURTAX-FUNDED**

18   **TRANSPORTATION IMPROVEMENTS ON COUNTY PROPERTY**

19   "To facilitate implementation of surtax-funded improvements to the countywide

20 transportation system, shall the Broward County Charter be amended to provide that

21 County ordinances regulating the development, including zoning, permitting,

22 construction, operation, or administration, of transportation improvement projects that are

23 (1) on County-owned or County-leased property and (2) funded in whole or in part with

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1 proceeds from the transportation surtax approved by the County's voters in 2018, prevail

2 over conflicting Municipal ordinances?"

3

4   YES   _____

5   NO   _____

6   FINANCIAL IMPACT STATEMENT:

7   It is estimated that this amendment will have no financial impact to Broward

8 County.

9

10   Section 9.   <u>Severability</u>.

11   If any portion of this Resolution is determined by any court to be invalid, the invalid

12 portion will be stricken, and such striking will not affect the validity of the remainder of this

13 Resolution. If any court determines that this Resolution, in whole or in part, cannot be

14 legally applied to any individual, group, entity, property, or circumstance, such

15 determination will not affect the applicability of this Resolution to any other individual,

16 group, entity, property, or circumstance. If the County determines any part of the ballot

17 statement, including the fiscal impact statement, is contrary to state law, the County

18 Attorney is authorized to request that the Supervisor of Elections remove the applicable

19 language from the proposed ballot proposal and the Supervisor of Elections is authorized

20 to remove such language.

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1   Section 10.   Effective Date.

2   This Resolution shall be in force and take effect immediately upon its adoption by

3   an affirmative vote of no fewer than six (6) members of the Broward County Board of

4   County Commissioners.

5

6   ADOPTED this   day of   , 2020.

7

8   Approved as to form and legal sufficiency:
      Andrew J. Meyers, County Attorney

9

10   By _/s/ Joseph K. Jarone_   06/12/2020
           Joseph K. Jarone   (date)
11   Assistant County Attorney

12
      By _/s/ Benjamin R. Salzillo_   06/12/2020
13   Benjamin R. Salzillo   (date)
           Assistant County Attorney
14

15   By _/s/ Rene D. Harrod_   06/12/2020
           René D. Harrod   (date)
16   Deputy County Attorney

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22   JKJ/BRS/RDH/jl
      Regional Facilities Charter Amendment
23   06/12/2020
      511000_2

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Exhibit A

NOTICE OF REFERENDUM ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2020, AND AT SUCH OTHER TIMES AS PROVIDED FOR EARLY VOTING BY SECTION 101.657, FLORIDA STATUTES, TO DETERMINE WHETHER TO AMEND THE BROWARD COUNTY CHARTER TO PROVIDE THAT COUNTY ORDINANCES RELATING TO THE USE OF COUNTY PROPERTY TO DEVELOP SURTAX-FUNDED TRANSPORTATION IMPROVEMENTS WITH A REGIONAL IMPACT SHALL PREVAIL OVER MUNICIPAL ORDINANCES.

A countywide referendum election will be held on Tuesday, November 3, 2020, and at such other times as provided for by Chapter 101, Florida Statutes, for the purpose of determining whether to amend the Broward County Charter to provide that County ordinances relating to the utilization of County-owned or County-leased property for transportation improvements shall prevail over Municipal ordinances.

As set forth in enabling Resolution No. 2020-___, adopted on ___, by the Board of County Commissioners of Broward County, Florida, the title and summary to appear on the referendum ballot shall be as follows:

COUNTY REGULATION OF THE DEVELOPMENT OF SURTAX-FUNDED TRANSPORTATION IMPROVEMENTS ON COUNTY PROPERTY

"To facilitate implementation of surtax-funded improvements to the countywide transportation system, shall the Broward County Charter be amended to provide that County ordinances regulating the development, including zoning, permitting, construction, operation, or administration, of transportation improvement projects that are (1) on County-owned or County-leased property and (2) funded in whole or in part with proceeds from the transportation surtax approved by the County's voters in 2018, prevail over conflicting Municipal ordinances?"

YES _____

NO   _____

FINANCIAL IMPACT STATEMENT:

It is estimated that this amendment will have no financial impact to Broward County.

A complete copy of the proposed amendment is available at [insert URL].

The referendum shall be held on November 3, 2020, between the hours of 7:00 a.m. and 7:00 p.m., and at such other days and times as provided under applicable law, including for early voting as provided by Section 101.657, Florida Statutes, at the polling places established in Broward County. All registered and qualified electors of Broward County shall be eligible to vote in said referendum election. Vote-by-mail ballots for the referendum election shall be prepared and made available as provided by law.

The Broward County Canvassing Board shall canvass the returns and certify the results of the referendum election to the Board of County Commissioners of Broward County, Florida, the Broward County Administrator, and the Florida Department of State, to be recorded and filed in appropriate public records.

Instructions:

A. Publish two (2) times:

    Once on: September 29, 2020
    Once on: October 13, 2020

B. Furnish two (2) proofs of publication and invoice to:

    Mary Ann Darby, Deputy Clerk
    Records, Taxes and Treasury Division
    Broward County Governmental Center
    115 S. Andrews Avenue, Room 336-U
    Fort Lauderdale, Florida 33301

C. Furnish one (1) proof of publication and invoice to:

    Board of County Commissioners
    Accounting Division, Room 201
    Governmental Center
    115 S. Andrews Avenue
    Fort Lauderdale, Florida, 33301