



# Broward County

## Legislation Details (With Text)

**File #:** 20-2201

**Version:** 1

**Status:** Agenda Ready

**In control:** County Commission

**On agenda:** 12/1/2020

**Final action:** 12/1/2020

**Title:** A. MOTION TO SUSPEND Section 18.7.j.1. of the Broward County Administrative Code (“Administrative Code”), which requires that a motion to consider rescission of an item be approved prior to Board consideration of a motion to rescind.

(Item Number 81 and Supplemental Item Number 93 were heard concurrently.)

**ACTION:** (T-4:59 PM) Following discussion, and without objection, Commissioner Sharief withdrew this item with. (Refer to minutes for full discussion.)

Commissioner Udine was not present during Item 81 and Supplemental Item Number 93, and intended on abstaining if a vote was taken.

B. MOTION TO RESCIND Board action on October 21, 2020, regarding Ranking of the Firms and Motion to Accept the Ranking of the Firms, which ranked and approved the ranking of Vital Pharmaceuticals, Inc. (VPX), d/b/a Bang Energy (“Bang Energy”) as the first-ranked firm, and directed staff to negotiate with Bang Energy, based on the Board’s finding that subsequent information has become known that (i) would have been material to the Board’s decision on the previous action and (ii) would have militated for a different result.

(Item Number 81 and Supplemental Item Number 93 were heard concurrently.)

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Commissioner Udine was not present during Item 81 and Supplemental Item Number 93, and intended on abstaining if a vote was taken.

C. MOTION TO RANK FIRMS based upon the vendors submittals, presentations, and supplemental information, and MOTION TO ACCEPT THE RANKING OF THE FIRMS, and direct County Administration to commence negotiations with the top-ranked proposer. (Commissioner Sharief)

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**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:**

Date	Ver.	Action By	Action	Result
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## Broward County Commission Regular Meeting

**Director's Name:** Barbara Sharief

**Department:** County Commission

### Information

#### Requested Action

A. MOTION TO SUSPEND Section 18.7.j.1. of the Broward County Administrative Code ("Administrative Code"), which requires that a motion to consider rescission of an item be approved prior to Board consideration of a motion to rescind.

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B. MOTION TO RESCIND Board action on October 21, 2020, regarding Ranking of the Firms and Motion to Accept the Ranking of the Firms, which ranked and approved the ranking of Vital Pharmaceuticals, Inc. (VPX), d/b/a Bang Energy ("Bang Energy") as the first-ranked firm, and directed staff to negotiate with Bang Energy, based on the Board's finding that subsequent information has become known that (i) would have been material to the Board's decision on the previous action and (ii) would have militated for a different result.

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**ACTION: (T-4:59 PM) Following discussion, and without objection, Commissioner Sharief withdrew this item with. (Refer to minutes for full discussion.)**

**Commissioner Udine was not present during Item 81 and Supplemental Item Number 93, and intended on abstaining if a vote was taken.**

#### Why Action is Necessary

Board suspension of Section 18.7.j.1 is required to permit rescission of the prior Board action in a

single meeting; Board action is required to rescind the prior action and to reconsider the motion to rank proposals and direct staff to commence negotiations with the first-ranked vendor.

**What Action Accomplishes**

Suspends Section 18.7.j.1 to permit rescission of the prior Board action in a single meeting; rescinds the October 21, 2020 action of the Board; and considers the motion to rank proposals and direct staff to commence negotiations with the first-ranked vendor.

**Is this Action Goal Related**

No

**Previous Action Taken**

**Summary Explanation/Background**

On May 1, 2020, Broward County (“County”) received an unsolicited proposal pursuant to Section 255.065, Florida Statutes (“P3 Statute”), from Foundry Commercial, LLC, related to the lease and development of Broward County-owned land in Unincorporated Southwest Broward County (“Unsolicited Proposal”).

On June 2, 2020 (Item No. 12), the Board directed the County Administrator to evaluate the unsolicited proposal. In accordance with Board direction, the County Administrator published notice that Broward County has received an unsolicited proposal and would accept other proposals for the same project for a period of 50 days after the initial date of publication. That solicitation, Solicitation No. PNC2121385F1 Land Development Opportunity in Unincorporated Southwest Broward County, closed on August 12, 2020, by which date the County had received three proposals: Bridge Development Partners, LLC; Helms Development/Clarion Partners; and Vital Pharmaceuticals, Inc. (VPX), d/b/a Bang Energy. Bridge Development Partners, LLC subsequently withdrew from consideration.

On October 21, 2020, the Board heard presentations, evaluated, and ranked the three remaining proposals (including the Unsolicited Proposal). The Board ranked Vital Pharmaceuticals, Inc. (VPX), d/b/a Bang Energy (“Bang Energy”) as the first-ranked firm. However, based on the Board discussions during the October 21, 2020 meeting, Bang Energy was requested to provide information on how Bang Energy intends to deliver water to the development site; and documentation detailing the represented approximately \$62,000 current median annual employee salary and how it was derived. In a written response to the County’s inquiry, Bang Energy provided a letter from Craven Thompson addressing the water delivery issue, and Bang Energy stated the previously provided annual employee median salary level of \$62,400 was erroneously calculated, and the corrected median salary figure is \$45,760.

MOTION A: Motion A would suspend Section 18.7.j.1 of the Administrative Code to allow the Board to suspend a procedural rule. Without the suspension of this procedural rule, rescission must be effectuated over successive Board meetings. Approval of Motion A requires six votes.

MOTION B: Motion B would rescind the Board’s action on October 21, 2020, to rank Bang Energy as the first-ranked firm and to direct staff to negotiate an interim agreement with Bang Energy. Section

18.7.j of the Administrative Code provides that a motion to rescind may be initiated by a Commissioner who voted on the “losing” side of the previous action if subsequent information has become known that (i) would have been material to the Board’s decision on the previous action, and (ii) would have militated for a different result. As indicated above, subsequent information has become known that would have been material to the Board’s decision on the previous action and would have militated for a different result. Approval of Motion B requires a majority vote of the full membership of the Board.

MOTION C: Motion C would permit the Board to rank the firms based upon the proposers’ submittals, the presentations made at the October 21, 2020, meeting, as well as the additional information subsequently disclosed, and to approve the final ranking and direct County Administration to commence negotiations with the top-ranked firm.

**Source of Additional Information**

**Fiscal Impact**

**Fiscal Impact/Cost Summary**

None.