

1 RESOLUTION NO. 2020-361

2 A RESOLUTION OF THE BOARD OF COUNTY
3 COMMISSIONERS OF BROWARD COUNTY, FLORIDA,
4 PROVIDING FOR A REFERENDUM ELECTION TO BE
5 HELD ON NOVEMBER 3, 2020, THE DATE OF THE
6 GENERAL ELECTION, TO DETERMINE WHETHER TO
7 AMEND THE BROWARD COUNTY CHARTER TO
8 PROVIDE THAT COUNTY ORDINANCES RELATING TO
9 THE USE OF COUNTY PROPERTY TO DEVELOP
10 SURTAX-FUNDED TRANSPORTATION IMPROVEMENTS
11 SHALL PREVAIL OVER MUNICIPAL ORDINANCES; AND
12 PROVIDING FOR SEVERABILITY AND AN EFFECTIVE
13 DATE.

14 (Sponsored by Commissioner Tim Ryan)

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

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

24 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,

19
20 BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF
21 BROWARD COUNTY, FLORIDA:

22
23
24
Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscoring type are additions.

1 Section 1. Subject to an affirmative vote of the general electorate, Section 11.01
2 of the Charter, titled 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 transportation improvements, funded in whole or in part
17 with transportation surtax proceeds, on County-owned or County-leased property,
18 including through County regulation of zoning, permitting, construction, operation, or
19 administration. This provision shall not apply to any County transportation improvement
20 project that is located in an area zoned residential as of June 16, 2020, unless (1) the
21 construction thereof commenced on or before June 16, 2020, or (2) the municipality
22 agrees to modify such zoning or takes such other action that would permit the intended
23 County use. Prior to exercising its power under an ordinance enacted pursuant to this
24 provision, the County: (1) shall conduct a public meeting during which it shall be available

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1 to discuss with the municipality(ies) in which the project is located the proposed
2 transportation improvement and seek to achieve consensus on any disputed issue(s);
3 and (2) shall determine by a vote of a majority plus one (1) of the total membership of the
4 County Commission that (a) the County considered other potential sites for such
5 transportation improvement, including all sites proposed to the County by affected
6 municipality(ies), and selected the site that, on balance, provides the greatest regional
7 benefit, and (b) if the transportation improvement is to be located in an area in which the
8 exteriors of then-existing buildings display a consistent aesthetic theme, the exterior of
9 the transportation improvement is consistent with that theme to the greatest extent
10 practicable.

11 In the event a County ordinance and a Municipal ordinance shall cover the same
12 subject matter without conflict, both the Municipal ordinance and the County ordinance
13 shall be effective.

14
15 Section 2. A referendum election is called for the General Election on
16 November 3, 2020, and at such other times as permitted for voting under Chapter 101,
17 Florida Statutes, to determine whether the Charter should be amended to allow County
18 ordinances to prevail over Municipal ordinances related to the utilization of County-owned
19 or County-leased property for surtax-funded transportation projects.

20
21 Section 3. In accordance with Section 100.342, Florida Statutes, at least
22 thirty (30) days' notice of the referendum election shall be published by the Broward
23 County Administrator in a newspaper of general circulation in Broward County. The
24 publication shall be made at least twice, including once in the fifth week and once in the

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1 third week prior to the week in which the referendum is to be held. The notice is hereby
2 attached as Exhibit A and made a part hereof.

3
4 Section 4. Said referendum election shall be held between the hours of
5 7:00 a.m. and 7:00 p.m. on Tuesday, November 3, 2020, and at such other days and
6 times as provided under applicable law, including early voting as provided by
7 Section 101.657, Florida Statutes, at polling places established in Broward County. All
8 registered and qualified electors in Broward County shall be eligible to vote in the
9 referendum election. Vote-by-mail ballots and early voting access for the referendum
10 shall be made available as provided by law.

11
12 Section 5. The election boards consisting of the clerks and inspectors
13 appointed to serve for the General Election on November 3, 2020, are hereby appointed
14 to serve in the referendum election in the manner provided by law.

15
16 Section 6. The Broward County Canvassing Board shall canvass the returns in
17 said election and shall certify the results of the referendum election as provided by law.

18
19 Section 7. The County Administrator shall timely furnish a certified copy of this
20 adopted Resolution to the Supervisor of Elections for Broward County.

21
22 Section 8. The title and summary of the referendum question to appear on the
23 General Election ballot on November 3, 2020, as embodied in this enabling resolution,
24 shall be as follows:

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

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

10 YES _____

11 NO _____

12 FINANCIAL IMPACT STATEMENT:

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

15
16 Section 9. Severability.

17 If any portion of this Resolution is determined by any court to be invalid, the invalid
18 portion will be stricken, and such striking will not affect the validity of the remainder of this
19 Resolution. If any court determines that this Resolution, in whole or in part, cannot be
20 legally applied to any individual, group, entity, property, or circumstance, such
21 determination will not affect the applicability of this Resolution to any other individual,
22 group, entity, property, or circumstance. If the County determines any part of the ballot
23 statement, including the fiscal impact statement, is contrary to state law, the County
24 Attorney is authorized to request that the Supervisor of Elections remove the applicable

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1 language from the proposed ballot proposal and the Supervisor of Elections is authorized
2 to remove such language.

3
4 Section 10. Effective Date.

5 This Resolution shall be in force and take effect immediately upon its adoption by
6 an affirmative vote of no fewer than six (6) members of the Broward County Board of
7 County Commissioners.

8
9 ADOPTED this 20th day of August, 2020. (Item 1B)

10
11 Approved as to form and legal sufficiency:
Andrew J. Meyers, County Attorney

12
13 By /s/ Joseph K. Jarone 07/20/2020
Joseph K. Jarone (date)
14 Assistant County Attorney

15
16 By /s/ Benjamin R. Salzillo 07/20/2020
Benjamin R. Salzillo (date)
17 Assistant County Attorney

18
19 By /s/ René D. Harrod 07/20/2020
René D. Harrod (date)
20 Deputy County Attorney

21
22
23 JKJ/BRS/RDH/jl
Regional Facilities Charter Amendment
07/20/2020
24 #517096.3

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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 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 surtax-funded transportation improvements shall prevail over Municipal ordinances.

As set forth in enabling Resolution No. 2020-361, adopted on August 20, 2020, 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 Broward.org/Charter.

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:

Broward County Attorney's Office
Broward County Governmental Center
115 S. Andrews Avenue, Room 423
Fort Lauderdale, Florida 33301

STATE OF FLORIDA)

) SS

COUNTY OF BROWARD)

I, Bertha Henry, County Administrator, in and for Broward County, Florida, and Ex-Officio Clerk of the Board of County Commissioners of said County, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of Resolution 2020-361 the same appears in the minutes of said Board of County Commissioners meeting held on the 20th day of August, 2020. (Item1B)

IN WITNESS WHEREOF, I have hereunto set my hand and official seal dated this 31st day of August, 2020.



(SEAL)

BERTHA HENRY
COUNTY ADMINISTRATOR

By Marylinne Parly
Deputy Clerk