

MINUTES

INDEPENDENT TRANSPORTATION SURTAX OVERSIGHT BOARD

DECEMBER 19, 2019

MEMBERS PRESENT: Shea Smith, Accounting, Director of Audit and Attest Services, Berkowitz Pollack Brant Advisors and Accountants, via telephone
Phil Allen, Retired, Finance
Douglas Coolman, Retired, Land Use and Urban Planning
Alan Hooper, Engineering/Construction Management, General Contractor and Real Estate Re-developer, Hooper Construction, Inc., and a founding member of Urban Street Development
George Cavros, Esq. P.A., Environmental Sciences, Florida Energy Policy Attorney, Southern Alliance for Clean Energy
Allyson C. Love, Former City or County Manager, Assistant City Manager, City of Homestead, via telephone
Dr. Consuelo Kelley, Resident Consumer of Public Transportation
Anthea Pennant, District Director of the Broward College Office of Supplier Relations and Diversity

Also Present: Angela Wallace, County Attorney's Office
Gretchen Cassini, Assistant County Administrator
Daniel J. Stermer, Mayor, City of Weston; President, Broward League of Cities
Richard Salamon, City Manager, City of Sunrise
Jason Nunemaker, Chief Administrative Officer, City of Plantation
George Platt, Co-Chair, Transportation Committee, Broward Workshop
Robert Holland, former member Miami-Dade Expressway Authority
Nancy Cavender, The Laws Group

A meeting of the Independent Transportation Surtax Oversight Board, Broward County, Florida, was held at Room 430, Governmental Center East, at 10:30 a.m., Thursday, December 19, 2019.

(The following is a near-verbatim transcript of the meeting.)

CALL TO ORDER - CHAIR HOOPER

MR. HOOPER: I'm going to call the meeting to order of -- it's an emergency Transportation Surtax Oversight Board meeting, Thursday, December 19th, 2019 at 10:30 a.m. I'm going to say one thing for you guys, if you can hear me, that are on the telephone, can you please mute your phone if you're not going to speak, and please do

INDEPENDENT TRANSPORTATION SURTAX OVERSIGHT BOARD

DECEMBER 19, 2019

dh/NC

not put us on hold, because at times there's a recording that comes with that, and we get the pleasure of listening to the recording. So please mute it, and don't put us on hold.

MR. SMITH: Okay.

ROLL CALL - GRETCHEN CASSINI

MR. HOOPER: Okay. All right. So, Gretchen, can you do a roll call, please?

MS. CASSINI: Yes, Mr. Chair. Dr. Kelley.

DR. KELLEY: Here.

MS. CASSINI: Mr. Allen.

MR. ALLEN: Here.

MS. CASSINI: Ms. Pennant.

MS. PENNANT: Here.

MS. CASSINI: Mr. Cavros.

MR. CAVROS: Here.

MS. CASSINI: Vice Chair Coolman.

MR. COOLMAN: Here.

MS. CASSINI: Chair Hooper.

MR. HOOPER: Here.

MS. CASSINI: We have a quorum present. On the telephone, Shea Smith?

MR. SMITH: Here.

MS. CASSINI: Wonderful. Allyson Love.

MR. HOOPER: She might be on mute.

MS. CASSINI: Allyson? Ms. Love, are you here? Okay.

MR. HOOPER: Okay.

INDEPENDENT TRANSPORTATION SURTAX OVERSIGHT BOARD

DECEMBER 19, 2019

dh/NC

MS. CASSINI: We have a quorum.

DISCUSSION ITEM

PRESENTATION: PROPOSED TRANSPORTATION SURTAX ORDINANCE AMENDMENTS

MR. HOOPER: So we called this meeting to order to discuss the proposed transportation surtax ordinance amendments. I think it's important that we go through it. There's been a lot of work that's being done by staff, and there's been some changes that have been made. It's important that our board reconvene, discuss the changes, and then make recommendations based on our discussion today. I'm going to ask Gretchen if you could maybe walk us through it, first, and then we can go into a discussion mode.

MS. CASSINI: Actually, first, we have the opportunity for public participation on the agenda, unless you'd like to move that to afterwards.

MR. HOOPER: I'd like to move that to afterwards, because there -- because if people want to speak on this, they should probably get a little bit of an education.

MS. CASSINI: At your pleasure.

MR. HOOPER: Okay. Thank you.

MS. CASSINI: All right. I'm actually just going to be in charge of advancing the slides, but Ms. Wallace, your general counsel, is going to speak to the actual amendments.

MR. HOOPER: Perfect.

MS. WALLACE: Good morning. By way of history, I guess we should mention that, I guess, at the Oversight Board's September and October meetings, there were discussions regarding the proposed revisions to the transportation surtax ordinance. The reso to publish the proposed revised ordinance was considered by the Board of County Commissioners at its November 5th meeting, and it was published for Public Hearing for December --

MS. CASSINI: Third.

MS. WALLACE: - 3rd. And at the December 3rd Public Hearing meeting, the item was opened and continued to the January 7th meeting. So at this point, it is anticipated that the County Commission will consider proposed revisions to the transportation surtax ordinance on January 7th in a Public Hearing, and it will consider the published proposed ordinance and any amendments that are presented -- amendments to that proposed ordinance that are presented at that time.

INDEPENDENT TRANSPORTATION SURTAX OVERSIGHT BOARD

DECEMBER 19, 2019

dh/NC

And at the October Oversight Board meeting, the Oversight Board reviewed the proposed revised ordinance and authorized the Chair to write a letter on behalf of the Oversight Board, that was submitted as additional material for the November County Commission meeting, and has been traveling with the proposed ordinance. There were briefings scheduled with Commissioners between the Chair and some of the County Commissioners regarding the Oversight Board's requests. And one of the Commissioners was willing to sponsor proposed amendments that are part of the amendments that will be part of the item. And I guess they were submitted to the Oversight Board for review and discussion for today's meeting. Okay.

MS. CASSINI: Yes, as the subject of this presentation.

MS. WALLACE: Right. And those are the subject of this presentation. And what was requested by the Chair was to have slides that include the existing transportation surtax ordinance provisions that were, I guess, at issue or of concern to the Oversight Board, and then present the proposed revisions.

Okay. So this particular section deals with staffing. And the existing ordinance language reads, Broward County shall provide sufficient staff to enable the Oversight Board to efficiently performs its functions, and shall retain such consultants as the Oversight Board determines necessary to perform its responsibilities. Okay.

MR. HOOPER: I'm sorry. Can we -- can we stick with let's show that and then let's show the proposed change to that, and then go to the next one, show the original language and then the proposed changes as they relate to those things? Okay.

MS. WALLACE: Okay.

MR. HOOPER: Thank you.

MS. WALLACE: So the proposed amendment that Commissioner Sharief has authorized -- and so -- reads as, well, staffing. Broward County shall provide sufficient staff and retain consultants as recommended by the County Administrator and determined reasonable and necessary by the County Commission to enable the Oversight Board to efficiently perform its functions.

And I guess I should add that I guess there was an Appointing Authority meeting yesterday, and the members of the Appointing Authority reviewed these slides as well, and made one, I guess, recommendation to this section. And they asked that we share their comments during this meeting. And so the proposed addition to this, or the proposed revision by -- suggested by the Appointing Authority was that Broward County shall provide sufficient staff and retain consultants as --

MS. CASSINI: As requested by the Oversight Board.

INDEPENDENT TRANSPORTATION SURTAX OVERSIGHT BOARD

DECEMBER 19, 2019

dh/NC

MS. WALLACE: -- requested by the Oversight Board, subject to being recommended by the County Administrator and determined reasonable and necessary by the County Commission. So they wanted to -- they suggested that requested by the Oversight Board be inserted in that provision.

MR. HOOPER: It sounded different -- it sounded a little different to me. Could you read it again, as how they -- they proposed it?

MS. WALLACE: Okay. So staffing. Broward County shall provide sufficient staff --

MR. HOOPER: Uh-huh.

MS. WALLACE: -- and retain consultants as requested by the Oversight Board, subject to being recommended by the County Administrator and determined reasonable and necessary by the County Commission to enable the Oversight Board --

MR. SMITH: That doesn't really change anything, because you still have the recommended piece in there. I don't -- I don't really understand that, but that's fine.

MS. WALLACE: And I guess --

MR. HOOPER: Okay.

MS. WALLACE: -- I guess the discussion with the Appointing Authority --

MR. SMITH: Yes.

MS. WALLACE: -- and the previous -- previous discussions with this body have involved the -- there's confusion regarding how these things are accomplished and whether this body is an entity that can hire staff or retain consultants. And this body is not an entity that is separate from the County. It is created by ordinance of the County Commission, and subject to the ordinance. And so this provision is intended to establish how staffing is provided and how it's approved. And so everything is subject to approval by the County Commission.

MR. HOOPER: Yeah, so it sounded to me like it says requested by the Oversight Board to -- to the County Administrator?

MS. WALLACE: Yes.

MR. HOOPER: See, it does -- it takes out -- see, when it says, as recommended by the County Administrator, it sounds like the County Administrator is the one making the recommendation.

MS. WALLACE: Uh-huh. And the change is that it's being requested by the Oversight Board to the County Administrator and determined reasonably and necessary by the County Commission; is that correct? Is that how it's been changed? So the --

MR. HOOPER: Just --

MS. WALLACE: -- without -- without the comment from the Appointing Authority, you mean?

MR. HOOPER: -- so it says -- I'll -- I'll go right to the spot. And retain consultants as requested by the Oversight Board. What's the next word?

MS. CASSINI: Subject.

MS. WALLACE: Subject to being recommended by --

MR. HOOPER: Oh, it doesn't change anything. Okay.

MS. WALLACE: That was a comment from the Appointing Authority yesterday.

MR. HOOPER: Okay.

MS. WALLACE: So I guess this is what is being -- one of the items being presented to the County Commission for its consideration during the Public Hearing when the County Commission considers the ordinance.

MS. CASSINI: Mr. Chair, may I speak --

MR. HOOPER: Yes.

MS. CASSINI: -- to Mr. Smith's question about how that changes anything? The Appointing Authority felt that the section of the original language -- I'm going to just go back so that the folks that are watching and participating in the audience can see -- the very -- the issue that they were concerned about is, upon request by the Oversight Board and -- being stricken.

So I'll show you here. If you'll notice that the very last sentence here was completely stricken through, and the beginning of that sentence said, upon request by the Oversight Board. The member of the Appointing Authority -- it was actually Mr. Seiler -- suggested that the request should come from the Oversight Board and that it should clearly state that the request is being made through a budgetary process. It goes to the County Administrator and then to the Board of County Commissioners, just for consistency.

MR. SMITH: Right, but when it says that it's subject to the recommendation of the

INDEPENDENT TRANSPORTATION SURTAX OVERSIGHT BOARD

DECEMBER 19, 2019

dh/NC

County Administrator, I don't -- I think that that kind of negates our recommendation, in a sense. I don't -- it just strips out -- I mean, to me, going back to just this original language, just the original, before anything was changed or suggested, I don't see how this would mean that we would be retaining anyone, because we just say that we determine it's necessary; right? But that doesn't talk about retaining. It says that Broward County will retain the consultants. I think a lot of this appears to me to be over-thought.

And going down the road of kind of letting us say, hey, we think we need someone, and we're going to talk about it, and we're going to consult with whoever we need to for us to make the determination, yes, this is necessary for us, I don't think that means we can retain them. But that determination that it's necessary for us I think is being stripped out of this.

MR. HOOPER: So in the letter that I provided as -- on behalf of our board, I believe the language said -- it really spoke to leaving it as it originally was, and then we added the language, as reasonable. And I think that that solved the problem. And then however the County wants to administrate the request, that's up to them. But at the end of the day, that's how we left it. It was more simple, to speak to what you're talking about, Shea.

MS. CASSINI: Do you want to make a comment?

MR. SMITH: Yes, thank you.

MR. HOOPER: Okay.

MR. ALLEN: Mr. Chairman, are we going to have any further discussion on that or?

MR. HOOPER: Do you want to? Do you have more -- do you have something to say?

MR. ALLEN: Thank you, yes.

MR. HOOPER: Phil, yeah, go ahead.

MR. ALLEN: The proposed amendment as redefined by the Appointing Authority basically follows the County budgetary process.

MS. WALLACE: Uh-huh.

MR. ALLEN: And everything in the budget that the County -- County Administrator recommends to the Board, it's her budget that is presented to the Board, and the Board then either accepts or rejects her recommendations through the budget process. I don't see -- you know, and that -- that's by Charter. I don't see how this language, the proposed language here, interferes or -- it supports that concept and doesn't really

INDEPENDENT TRANSPORTATION SURTAX OVERSIGHT BOARD

DECEMBER 19, 2019

dh/NC

interfere with our ability to make the request to the County Administrator for a budget amendment that would provide the appropriation necessary.

MR. CAVROS: Let me just throw this out to the group. You know, clearly, the County Administrator, as it's posited here, is the decision-maker. She'll decide whether to recommend and seek the -- you know, the funds that we would -- would support, you know, the additional staff that we would need. I assume if she does not make a recommendation consistent with our wishes, we could go directly to the Board; is that correct?

MR. HOOPER: Are you asking?

MR. CAVROS: Maybe that's a question for Angela.

MR. HOOPER: Thank You.

MS. WALLACE: So if the County Administrator does not, then this body could submit another request to the County Commission outlining this body's request.

MR. ALLEN: And it would be subject to the --

MS. WALLACE: But it's subject to the --

MR. ALLEN: -- appropriation process and --

MS. WALLACE: Correct. It's all subject to the appropriation. So even if the County -- you write a letter to the County Commission and the County Commission decides that it should be included in the budget, it would go through the County Administrator in submission for the budget process.

MR. ALLEN: And there --

MS. WALLACE: That's the way it works.

MR. ALLEN: -- and there are multiple rejections by the County Administrator to fund programs that either are accepted or rejected by the Board --

MS. WALLACE: By the County Commission.

MR. ALLEN: -- by the Commission --

MS. WALLACE: Correct.

MR. ALLEN: -- during the budgetary process.

MS. WALLACE: Correct.

MR. HOOPER: So --

MR. COOLMAN: Alan?

MR. HOOPER: -- go ahead. Go ahead.

MR. COOLMAN: If we're going to continue this, fine. If we're going to come back to it, fine also. But if we're not going to come back to it, if we're making a decision on this, then I do want to say something.

MR. HOOPER: I think we should discuss one portion at a time, and then if we want to either bundle them all into one motion or if we want to make separate motions, we can do whatever. But I think we should be discussing this now. So if you have something to say about it, please, I urge you to say something.

MR. COOLMAN: Well, just in general --

MS. PENNANT: And I --

MR. COOLMAN: -- this Item G is kind of the crux of this meeting, in my opinion. Item G is the crux of why we're here today. And, I mean, I think there are some changes to the original in other areas that need to be made. Like from 90 to 180 days, I can understand that. But this goes to the heart of what we're supposed to be doing. And I know it needs to be phrased in such a way, and I think the -- there's been amendment on amendment on amendment. But in essence, to say that, for budgetary reasons, it has to be approved, I understand that, but I would hope budgetary related to surtax dollars wouldn't be an issue in this case. But I certainly support what it initially said, and I think we need to find a way to say this closer to what it was said if we're not going to take it as it originally was proposed. This is something the voters voted on, and I think they might have liked the idea that --

MS. WALLACE: No.

MR. COOLMAN: -- that someone else was making some decisions.

MS. WALLACE: So the voters -- I think you -- that saying that the voters voted on this is -- is of concern. So the ballot question did not include any reference to this ordinance. And the ballot question -- I have it --

MS. CASSINI: And the voters did not vote on the ordinance.

MS. WALLACE: Correct. The County Commission --

MS. CASSINI: The ordinance is simply passed by the County Commission.

MS. WALLACE: Correct.

MS. CASSINI: So she's going to read into the record what the voters voted on.

MS. WALLACE: So --

MR. COOLMAN: That'd be fine.

MS. WALLACE: -- the ballot question was, shall countywide transportation improvements to reduce traffic congestion, improve roads and bridges, enhance traffic signal synchronization -- signal synchronization, develop safe sidewalks and bicycle paths, expand and operate bus and special needs transportation, implement rail along approved corridors, and implement emerging transportation technologies be funded by levy -- levying a 30-year one percent sales surtax paid by residents and visitors, with the proceeds held in a newly-created trust fund and expenditures overseen by an Independent Oversight Board. Yes or no. That's what it says.

MS. PENNANT: Okay.

MR. COOLMAN: And I think the fact --

MS. PENNANT: Mr. Chair?

MR. COOLMAN: -- overseen by the Independent Oversight Board and this was, yes, written after, this goes along --

UNIDENTIFIED SPEAKER: No.

MS. WALLACE: This was written --

MR. COOLMAN: -- well, it wasn't --

MS. WALLACE: No. So the ordinance was adopted when the ballot language -- the County Commission approved the ballot language and the ordinance in June of 2018. And the ballot language was on the November 2018 ballot.

MR. COOLMAN: Right.

MS. WALLACE: And the ordinance was not included on the ballot, and the ordinance does not outline the procedures. And the purpose of this is there's confusion regarding what the County's processes are and how the Charter guides the organization and its operations. And it needs to be clear how the process works so that -- I mean, it needs to be clarified so that going forward there's no confusion regarding how the process works

INDEPENDENT TRANSPORTATION SURTAX OVERSIGHT BOARD

DECEMBER 19, 2019

dh/NC

and what the roles of the internal stakeholders, who are responsible for these functions, work.

MR. HOOPER: Ms. Pennant.

MS. PENNANT: Okay. So, for me, the big question here is how you define independent.

MS. WALLACE: Uh-huh.

MS. PENNANT: Because to the voters, we are an Independent Oversight Board, and that in itself almost states that we have some autonomy to operate independently.

MS. WALLACE: But you are not a legal entity. So the independence, in order to be independent and function autonomously, you need to be a separate entity. And this body is not a separate entity. It is a board that is created by and subject to County ordinance. It's --

MS. PENNANT: So -- so -- so --

MS. WALLACE: -- it's not a legal entity. It's -- you cannot contract --

MS. PENNANT: -- and -- and I understand that. But --

MS. WALLACE: Right.

MS. PENNANT: -- but it seemed to me if you have complete control over staffing and the consultants that we hire, that impacts how independent we can be. Because, for example, if we wanted to hire a performance auditor and you don't agree with that, then we're stuck. And we have an obligation to operate with some element of independence, to have some autonomy to be able to say, this is what we need in order to be able to execute on behalf of our residents. And I think the public has the sense that we're independent. But we don't control staffing. We don't control money. We don't control our -- who we have as legal counsel. Where is the independence? So maybe that is the question. How exactly is our independence being defined?

MS. WALLACE: So can I speak to --

MR. SMITH: Can I -- can I make a couple comments, too, whenever it's a good time? Because I know I can't see you guys, so it's a little tougher.

MR. HOOPER: Do you want to respond to that, Ms. Love --

MS. LOVE: And this is Allyson --

MR. HOOPER: -- Ms. Wallace and then --

MS. LOVE: -- Allyson Love also -- Allyson --

MR. HOOPER: Okay.

MS. CASSINI: Allyson Love is --

MS. LOVE: -- Love is also --

MS. CASSINI: -- on the phone.

MS. LOVE: -- on the line.

MR. HOOPER: Good morning. I'll call -- Shea, you'll be next right after Ms. Wallace.

MS. WALLACE: So the --

MR. SMITH: Okay.

MS. WALLACE: -- your independence is -- has to be within the structure of the organization as defined by the County Charter. So there's authority that belongs to certain entities. One -- well, the County, as the organization as defined in the Charter, there's a role of the County Commission with regard to this funding, in particular, I mean, it's all County funding, the obligation and the responsibility of the Board to budget and appropriate money. And the provision that includes being approved by the County Commission, submitted by the County Administrator and approved by County Commission, that's the County Commission's role in budgeting and appropriating money. And that's -- so -- and the -- you have the County Attorney's role in the Charter, which is defined. And the County Attorney's obligation and responsibility to represent the organization and its agencies, and including boards created by the County Commission. The County Administrator's function as the manager of the organization and all of those functions, like procurement and budget that fall under the County Administrator.

MS. PENNANT: So Mr. Chair.

MR. HOOPER: Go ahead.

MS. PENNANT: So I have some concerns about the board being able to retain some level of credibility. When I look at the original ordinance and under K, annual audits --

MS. WALLACE: Uh-huh.

MS. PENNANT: -- the Oversight Board shall retain an independent certified public

INDEPENDENT TRANSPORTATION SURTAX OVERSIGHT BOARD

DECEMBER 19, 2019

dh/NC

accountant -- to perform and complete annual audits of all projects funded with the transportation surtax proceeds. So on one hand, we have this language stating that we have the ability to retain.

MS. WALLACE: Uh-huh.

MS. PENNANT: So are we changing all of that? I mean, I'm confused.

MR. SMITH: Let's -- let's stay on staffing --

MS. PENNANT: I'm confused.

MR. SMITH: -- I think, right?

MR. HOOPER: Okay. Mr. Smith.

MR. SMITH: Yeah, I was just suggesting that because I like the order that you proposed. I think it's going to be easier for everybody to follow. Listen, I think we have a tendency to get down a rabbit hole on these calls where we all know we're not a separate legal entity, and we understand there's procedural things that need to be built into that. I don't think that we always need to keep going back to that. And in terms of the voters voting on this, it's another technicality. It's like they have the same information, so we got to the same point.

So the point holds that if people are following this closely, they're looking at this language. I don't know how many people are doing that, but it -- it is important. The point still is valid. And I think where I'm really stuck on a lot of this is from what we're saying are the concerns, okay, and you actually look at the language, why do we have to change what is there to address those concerns. Okay? So let's take staffing. The way that it reads, it's very clear to me that the -- that Broward County is going to retain the consultants.

What it gives us the power to do is determine that they are necessary, at our level. That doesn't mean retain. It very clearly says retain. Now, if somebody wanted to put another sentence on the end of that to clarify that the actual retention would be performed at the County level, which, once again, I think it's already clear, where is the conflict?

That's what I don't understand, as a practical matter, what we're addressing. So this just gives us power to determine it's necessary. So we do that at our level. So where does the conflict really come from? If Broward County doesn't want to retain this -- this person or consultant or whatever it is, then we're kind of, you know, at odds with the County. So at that point, it would play out.

And if we put something in here to clarify maybe what would happen in that instance, I

INDEPENDENT TRANSPORTATION SURTAX OVERSIGHT BOARD

DECEMBER 19, 2019

dh/NC

would be okay with that. But it's very clear that the changes that are being made are not just addressing these procedural issues. It's very clear. So I don't understand what --

MR. HOOPER: I --

MR. SMITH: -- what that is.

MR. HOOPER: Okay. And I agree with that. I think if you left the language exactly how it was, that it shall be -- provide sufficient staff to enable the Oversight Board to efficiently perform its functions, and shall retain such consultants as the Oversight Board determines necessary to perform its responsibilities, and then you wanted to add a sentence at the end that says, as it shall be administrated by the County Administrator as per County Charter procedures, that answers that question. But what happens in the edits and in the changes is that it takes away our ability to decide whether we want -- what -- whether or not we deem something necessary and if it's going to be provided. And that separates the independence, because now we are asking, and we are not requesting and getting.

So I think -- I just think that that's the crux of it, and I agree 100 percent with what Mr. Smith is saying. It -- there -- there's no -- it's clear. And I'll say something else. This ordinance was written up by the County Attorney; okay? Whether it was done before or after the referendum, it was written up by the County Attorney. So now these changes are coming, and they're coming from the three departments. And I just think we need to be careful and let's work together to get the -- get the job done and not -- and I think the whole thing should stay the way it was, to be honest with you, as it relates to the Oversight Board.

I think everything should remain the way it is. Because it bends -- it bends the independence, or the perception of independence, and it bends how the public looks at what we are doing now. And I really don't want to be a part of losing our independence or being part of a board that decides that we're going to vote on changing the language that was originally proposed by the County and their County Attorney. So --

MS. PENNANT: So --

MR. HOOPER: -- go ahead.

MS. PENNANT: -- I guess for me the big concern is this is for 30 years, and if already we're in a quandary about the language, what's going to happen when the leadership of the County changes? What's going to happen? And the reality is that we need to stay authentic to the voters who voted for this. And the leadership -- I mean, this is their -- their baby. So, you know, the baby has been birthed. We can't just now start doing, I don't know, nose jobs, whatever. Changing stuff around. We need to really stay true to the essence of what was intended originally, and make sure that whatever changes that are being made now, that they can hold for the next 30 years and still maintain the

INDEPENDENT TRANSPORTATION SURTAX OVERSIGHT BOARD

DECEMBER 19, 2019

dh/NC

integrity of the Oversight Board.

MR. HOOPER: Mr. Cavros.

MR. CAVROS: Yeah, thank you, Mr. Chair. I mean, I agree with you. I think that's the way it should be -- it should be written. What the County is telling us is that they have -- you know, upon further review, they're saying that we can't -- you know, that shall is a problem, shall retain, because we can't -- we are not an independent body. We are a board of the County, and there's a process that we need to follow. So, you know, we're sort of between a rock and a hard place. I think that's the way it should be written, but we don't have the authority, according to the County, to require it (inaudible) as we see fit.

MR. SMITH: I think that that's talking about -- I think that's talking about Broward County. I wouldn't have a problem if it said to efficiently perform its functions and Broward County shall retain such consultants as the Oversight Board determines necessary. I think this is already saying that's Broward County and not us. It's not saying that we're going to retain. I think that's maybe where the inconsistency is coming from. But we should be able to determine what's necessary for us and make that recommendation. I think that's all that this is saying.

MR. HOOPER: And, you know -- Ms. Cassini, would you like to say something? Were you about to say something?

MS. CASSINI: No. I was just stating that Mr. Cavros is talking about a different issue, and that's the issue that we workshopped in October together. And that's the shall, which is can an Oversight Board that's received delegated authority from a Charter County, related to a Charter County's surtax, provide direction to the County Administrator or to the County Commission with respect to staffing.

The shall is the issue. It doesn't say recommend. It says that whatever you deem necessary, we shall -- the County shall do. And that, I think, is what was the crux of the issue. And if I may, I do think, going back to Ms. Pennant's point with respect to what is independence, what was the legislative intent around creating that term, I think that's an important thing for this group to come -- to coalesce around. Because independence in decision-making, independence in staffing is different than independence from political influence.

MR. HOOPER: Well, I can say that I've read the minutes from the October meeting, and I've gone back and read some other minutes, and this board was completely confused. A lot of the back and forth went on for hours on shall versus may, and I probably caused half of that. And -- but I will say that in that particular instance, and after reading all of that, and after feeling what -- like we were bouncing back and forth with staff, and specifically Counsel, it made me feel at that -- while I was reading that, that we probably should have had counsel on our side. And maybe they would have

INDEPENDENT TRANSPORTATION SURTAX OVERSIGHT BOARD

DECEMBER 19, 2019

dh/NC

agreed, they would have agreed. But it feels like we're -- that sometimes it -- it feels like I'm -- we're not being independent.

Maybe we need somebody that says, hey, she's right. Or, no, you can look at it this way. Or we can write it this way. But -- so there's been so much -- and I just feel like if you leave it alone or if you clarify it below that, I think that's -- that we're going to administrate it as a -- as it's required by the County Charter. That's it. It has to fit in the budget, whatever. But we're using surtax dollars, okay? And those surtax dollars are coming from a penny sales tax that didn't belong to us in the first place. We didn't have that last year.

It's not like we're digging into a budget that's from a General Fund. We're using it from the surtax. And if it's within reason and we request it, it should go to the County Commission. That's where it should go. There shouldn't be someone in between that says, nah, you know, I'm not going to give that to them. I'm not going to recommend that. So I just -- I think we're talking about money that is being generated to move the surtax program forward, and that we are an Oversight Board that is here because of that revenue.

UNIDENTIFIED SPEAKER: (Loudspeaker message.)

MR. HOOPER: So unless -- unless we vote to leave it the way it is, I'm one person that's going to vote against an amendment to it. Okay. Does anybody else have any -- do we want to go to the next -- the next area, or does anyone have more to say about this particular item?

MS. PENNANT: I just want to add that I think we really need some clarity on the scope of our independence.

UNIDENTIFIED SPEAKER: Absolutely (Inaudible.)

MS. PENNANT: I think that needs to be clarified so moving forward there is no discrepancy or re-discussion on the issue.

MS. WALLACE: Uh-huh.

MS. PENNANT: It's -- we need to outline what the intended independence -- scope of independence is.

MS. WALLACE: Uh-huh.

MS. PENNANT: We need to know.

MR. HOOPER: Okay.

MS. LOVE: This is -- this is Allyson. Can you all hear me?

MR. HOOPER: Yes. Go ahead.

MS. LOVE: So I would like to be able to talk about -- or be able to address each of the amendments separately opposed to just talking about it from a global perspective. So I just want to weigh in on the fact of if we could just go one by one and then weigh in.

MR. HOOPER: We're -- right now, what we're talking about is the staffing. So, please, if you'd like to weigh in on that first amendment under G, staffing, please do.

MS. LOVE: I'm okay with it as it's stated in the original amendment -- the way that it was originally.

MR. HOOPER: Okay. Is there any other comments on this item, on this portion of the ordinance amendment?

Okay. Let's --

MR. ALLEN: Is the intent to do it piece by piece?

MR. HOOPER: Do you want to do it piece by piece? I'm open to recommendations.

MR. ALLEN: I think we --

MR. HOOPER: It's more clear if we do it that way?

Okay. Does someone want to make a motion on this first -- oh, you know what?

MAYOR STERMER: Mr. Chair, are you then going to take public comments?

MR. HOOPER: You're -- you're right. Yes, sir. Yes, sir.

So why don't we -- why don't we allow for public comment on this particular piece. If you could come up to the table, and if you're -- can you help?

MS. CASSINI: I will. Sure. Happily.

MR. HOOPER: And please state your name and if you represent anybody.

MAYOR STERMER: Good morning, Mr. Chairman, members of the oversight -- Independent Oversight Board. Daniel Stermer. I'm the Mayor of the City of Weston, and this year I am the president of the Broward League of Cities. It's interesting to listen to your conversation. Many of you, except for Mr. Allen, I've never met before or spoken with before, so you're all strangers to me. But the surtax isn't. Many of you may remember, I was the face of the surtax in 2016, when the County Commission demanded as part of that effort there be an Independent Oversight Board. The cities said yes to that.

INDEPENDENT TRANSPORTATION SURTAX OVERSIGHT BOARD

DECEMBER 19, 2019

dh/NC

We are significantly concerned with the languages not only in this section, but in the rest of the section. And what was put forth to the voters and the perception of independence and now that independence is going to be in name only. As you said, Mr. Chair, this 30-year funding stream is tens of billions of dollars. The County has hired hundreds of personnel, and they're telling you you can't have staff. The intent, going back to 2016 and again in 2018, was to allow you to do what you needed to do with the staff you needed to do it. That was the intent. To sit here today, it's almost like we're going back many years to argue what is in this -- in this realm of where we are today, after yesterday. And that's what we're doing.

MR. HOOPER: That's right.

MAYOR STERMER: To your point, what's independent. You all know what you think it is. The County's trying to tell you that's not what it is. And they're trying to tell you it's because of a budget process. As you said, this is surtax dollars. You're not taking County dollars. You're taking surtax dollars. There's also an interlocal agreement between the County and the cities on the use of it. None of this has been brought back to the cities. None of it.

So why you're having an emergency meeting less than a week before Christmas -- there's nothing burning down tomorrow. This isn't melting ice cream. What's the rush? What's the change? And I'm just going to stick on the staffing side. You're independent. You may need -- you know, the Office of the Inspector General is independent as well. Has the County Commission ever said no to his funding requests? The answer is no. Granted, he's a Charter office. Got it. But he puts through a budget request with the staff he wants, the staff he feels is necessary to carry out his independent function. And he's independent. Why aren't you?

So on behalf of the 31 cities and the people who pay this surtax, we believe your independence is more than just in name only, and we'd ask you to go back to the original language in the original ordinance. Sure, does there need to be that your request goes to the Administrator? I got that part. We get that part. And I'm joined this morning by representatives from a host of cities, and you've never seen us at your meetings before. That's how significant this issue here is, that there are city managers and other elected from Plantation, from Lauderhill, from Sunrise, and other cities that are here this morning. We've reared our head because this is taking away your independence, what the voters thought they were getting when they voted for this in 2018. Not what's getting put before you today. Thank you.

MR. HOOPER: Thank you, sir.

UNIDENTIFIED SPEAKER: Oh, I'll follow up. Go ahead.

MR. HOOPER: Yeah. Okay. You, sir, and then Mr. Platt. And can we try to keep it to

INDEPENDENT TRANSPORTATION SURTAX OVERSIGHT BOARD

DECEMBER 19, 2019

dh/NC

two minutes, as close to that as possible?

MR. SALAMON: Absolutely. Good morning, Mr. Chair and members of the Oversight Board. I'm Richard Salamon. I'm the City Manager for the City of Sunrise. I want to echo in the entirety what Mayor Stermer just said, far more well-spoken than I will ever be. However, I do want to point out that, you know, 15 months ago, Sunrise was a strong supporter of the transportation surtax and of the Oversight Board that went with the whole process.

In fact, in 2016, we were early adopters and early supporters of the whole process, as well, including the oversight -- Oversight Board. We remain a strong proponent of the Oversight Board and its important roles, reviewing projects for eligibility in accordance with statutory requirements, ensuring accountability for the process of funding and delivery of transportation improvement projects, and ensuring transparency of the process for reviewing, funding, and delivering transportation improvement projects.

The voters recognized that the transportation surtax provided an opportunity to transform Broward County. Thirteen months ago, they voted for the surtax program, including the important role of the Oversight Board. Now we all need to focus on the mission. The MPO needs to prioritize projects. The Oversight Board needs to determine statutory eligibility of projects. The County needs to provide funding for prioritized and eligible projects. The County and the municipalities need to deliver the projects. And then the Oversight Board needs to ensure accountability and transparency of the whole process.

We also need to respect the authority of the impacted entities. The MPO, the County, the Oversight Board, and the municipalities all have roles in this process, and we need to respect that. And this -- the ordinance needs to respect that. I do have significant concerns about the proposed amendment to the transportation surtax ordinance that's been presented to you. I'm very concerned that the County is unilaterally proposing several changes that are not consistent with the amended interlocal agreement with the municipalities, and that these changes will have direct impacts on municipalities and their ability to deliver surtax projects.

Sunrise and the other municipalities need an opportunity to discuss these concerns directly with the County. I'm also concerned that the County is unilaterally changing the role of the Oversight Board from a body that the voters supported to ensure independent accountability and transparency to a body that acts simply in an advisory capacity to the County. These are two very different roles.

Finally, I'm also concerned that the proposed amendment to the surtax ordinance is simply the first of many unilateral changes over the next 30 years and -- that would take responsibility and authority from others and give them to the County. In conclusion, I urge the Oversight Board to advise the County that it is unable to support an amendment to the surtax ordinance until the County holds a public workshop to discuss

INDEPENDENT TRANSPORTATION SURTAX OVERSIGHT BOARD

DECEMBER 19, 2019

dh/NC

the proposed changes with the MPO, the municipalities, the Oversight Board, and the public. Thank you.

MR. HOOPER: Thank you, sir. Mr. Platt.

MR. PLATT: George Platt. I'm here today wearing my hat as the co-chair of the Transportation Committee of the Broward Workshop. Randall Vitale, as you may know, is the other co-chair of the Transportation Committee, and Randall chairs the nominating committee for the Oversight Board. Our executive committee met this morning, and we talked about these issues. We didn't get down into the weeds on the specific language.

It is important to us, and I know it's important to this board, to continue to have a very close and successful working relationship with all of the players, all of the stakeholders, the cities, the MPO, obviously the Oversight Board and the County Commission, and a lot of the other players that are involved, including DOT.

From our perspective, the voters wanted to have an Oversight Board that was independent. It is clearly, as everybody has reflected and -- and your attorney has told you, you're not an independent political entity. You're a creature of the County, and, therefore, as Phil Allen pointed out, you have to work closely with the County in terms of both carrying out procurement authority or carrying out budgetary authority. And so what's really important is that -- is that -- and it's like everything in politics, there's perception and there's reality. And what we want here is for those two things to come together so that you do have a strong semblance that this board has some independence to carry out your role at the same time as you're working hand-in-glove with the County and their staff and all of the other players that are involved.

To do that, I'm not crazy about -- and I don't think Randall is, either, but I'll let him speak for himself -- the amendments, I think, are not helpful. You know, the language that you have in this original, you know, you could add the language as subject to County procurement and budgetary responsibility, and you would be there. I mean, clearly, we understand that any -- anything that happens that the County's going to pay for, they have to go through a proper legal process.

The Administrator plays a role, the department heads play a role. Your Executive Director or Director here of the MAP program is going to play a role. So there's no mystery to that. And I think we're tending to maybe get overly complicated here by getting too far down in the weeds. So I just want to kind of try to pull you all back a little bit to -- to say, look, what can we do to ensure that we have some independence to make the kind of recommendations we want to, to scrutinize projects when we think there may be an issue, whether we do that through County staff or through an independent consultant that may be giving us some independent advice. Okay.

Nobody's going to suggest you're going to kind of beef up a big staff that's going to cost,

INDEPENDENT TRANSPORTATION SURTAX OVERSIGHT BOARD

DECEMBER 19, 2019

dh/NC

you know, millions of dollars a year or anything like that. But, on the other hand, there may be times when you need an independent auditor and not just the County Auditor to -- to work on a specific issue. Even potentially from time to time independent counsel. But that's not so much the issue here today as trying to say how do you reconcile this language back to what was really intended. And I think -- I think Ms. Pennant and others have articulated that the word, independent, has meaning. It can't be an empty promise. It can't be an empty word.

I would say to you there's no rush here. I think the amount of work that's taken place in the first year has been tremendous. I've seen the dashboard, the presentations from Gretchen and others that are wonderful. I mean, we are creating a very solid foundation. But I think to make sure that the public has a level of confidence in the work that's going to take place over the next 30 years -- now over the next 29 years -- we need to slow down a little bit, get the input from the people, wordsmith these things to the point where we can create a consensus and continue to go forward on these projects.

And so I can't stay for your entire meeting, but I -- the sense of the Broward Workshop is this is -- this is resolvable. It doesn't need to turn into some kind of a conflict at all. And I sort of echo what Mayor Stermer said, that let's -- let's take the time to make sure we get it done right. And that's all I'm asking you to do. The word, independent, has to -- for the Broward Workshop, that was the key to their support, both in '16 and in '18, and we want to continue to see that, because we think it will serve the entire program very, very well. And we love what's happened so far to date, and we want you to keep -- keep it on the straight and narrow here. So thank you very much.

MR. HOOPER: Thank you. One more?

MR. HOLLAND: Yes.

MR. HOOPER: Okay.

MR. HOLLAND: Good morning. Robert Holland, former member of the Miami-Dade Expressway Authority for ten years, the vice chair. I recognize how important transportation is. And I also recognize, as someone who worked in politics a long time, how sometimes ruses can be pulled on a community. And so it could have very well -- the legislation or what was presented before the voters could have been we're creating an independent oversight authority to work in conjunction with the County and the MPO and all the other stuff. That wasn't done, because, obviously, they recognized that by saying it's an independent authority, that gives the voters a greater confidence in being able to support something like this.

So you do need to fight for some of that independence, as you deal with this, because we had the same issue in Dade County on the transportation -- transportation tax that over the years, come to find out, that money was being used for bus services and new buses, none of which were part of the initial legislation, which caused a big issue. So

INDEPENDENT TRANSPORTATION SURTAX OVERSIGHT BOARD

DECEMBER 19, 2019

dh/NC

you may want to even take a look at that and how that was structured and some of the pitfalls that happened with that. I recognize there is a need to coordinate with the various entities, MPO, the County, and everything else.

You need to also make sure you watch from a budgetary standpoint that you don't take on all these County staff folk that are doing other things but you're paying the payroll for -- for the provisions that you've had money allocated for. So it's going to be very key that you kind of pay attention to these things that are going on. Transparency's going to be vitally important. Voters don't trust government, and we have to find a way, because it's important for a society to work, we have to find a way to rebuild that confidence by being very transparent and very open and very direct with people, and you take away sometimes that negativity that is out there in the marketplace.

But it's going to be very key that you guys, as the independent authority, are willing to stand up and say that, yes, we do have some of this independence, and here's what we're doing to coordinate with these other entities to make sure that we do the right thing in this community and we include all. Once you lose that and it just becomes a recommending body, then people lose confidence in the next referendum that is needed to fund government through G.O.P. bonds and everything else. So it's going to be very important that you guys stand up on that independence, even though you're doing the coordinating with the other entities.

MR. HOOPER: Thank you very much. One more, please.

MR. NUNEMAKER: I'll be brief. Good morning. Jason Nunemaker, Chief Administrative Officer for the City of Plantation. First, I want to thank you all for your volunteer efforts. The city's very supportive of this program. We appreciate the relationships we've developed with staff. But in regard to the comment about the voters not having considered the ordinance, that may be true, but I can tell you from the municipal perspective, that was incorporated by reference into the ILA.

So if there are going to be substantive changes to that ordinance, I think the municipal partners should be consulted. So, again, I just want to say that we're supportive of the comments that have been made. We'd like to see greater interaction with the municipalities we're going to -- if we're going to have substantive changes. Thank you.

MR. HOOPER: Thank you, sir. Ms. Wallace.

MS. WALLACE: Okay. So I feel like there's some, I guess, misunderstandings and some misinformation that needs to be addressed. There is no authority. So I don't know whether there was some independent authority and there's a -- there's a legal meaning to an authority. Like Port Everglades used to be Port Everglades Authority. That is not what this is.

MR. HOOPER: Right.

INDEPENDENT TRANSPORTATION SURTAX OVERSIGHT BOARD

DECEMBER 19, 2019

dh/NC

MS. WALLACE: So --

MS. CASSINI: (Inaudible).

MS. WALLACE: Right. But this is not -- there's no authority. Maybe they have a separate authority in Miami-Dade County. That's not what this is. This is a creation of County ordinance. So -- and we need to distinguish between Charter positions like the Inspector General, the County Administrator, the County Attorney, and the County Auditor. This is not a Charter body. So when the Inspector General, you know, can submit, but the Inspector General, County Attorney, County Administrator, County Auditor submit budget requests, they go through the budget process and they are subject to approval by the County Commission, just like everything else.

So, you know, we have to distinguish, you know, what we're talking about. We're not an authority. We're not a Charter body, but everything is subject to the County Commission's approval, including this ordinance. The revisions to the ordinance are consistent with the interlocal agreements that have been entered into between the County, the municipalities, and the MPO. And there are provisions in the ordinance that outline all of the provisions of the interlocal agreements that address the procedures for dealing with municipal projects and municipal funding and how those projects will be dealt with. So there is no inconsistency there.

The whole process that's outlined in those interlocal agreements is outlined in this proposed ordinance revision. So that is misinformation. And there will be a Public Hearing. So the -- prior to the revisions of the ordinance, the Florida statutes and the County's processes require that ordinance revisions are subject to Public Hearing. And that has been any and everyone's opportunity to provide input with regard to the ordinance, the original ordinance and any proposed revisions to the ordinance.

And that Public Hearing is scheduled to occur in January. So anyone who wants to have input is welcome to do so at the Public Hearing. And with regard to counsel. The County Attorney is a Charter provision, and the County Attorney, under the Charter, has legal responsibility. It says the County Attorney shall be the chief legal counsel to the County and direct and supervise the County Attorney's Office.

The County Attorney shall represent the County, the County Commission, the County Administrator, the County department heads, all departments and divisions of the County, all boards, committees, agencies, and authorities in all legal matters affecting the County unless otherwise provided for in the Charter or by ordinance. Upon request, the County Attorney may request -- may represent constitutional officers. So to the extent that there is a request for counsel, that would be subject to the County Attorney's determination that outside counsel would be appropriate, and selection of outside counsel would be subject to approval by the County Attorney.

MR. HOOPER: So, speaking to that, so independent -- an independent board with -- that in an ordinance says it's independent, and that it has the right to hire third party, I think that that's different than a County board. I may be wrong.

MS. WALLACE: Uh-huh.

MR. HOOPER: Okay. But it -- it speaks to its independence to be able to -- and, honestly, the changes that are happening to this ordinance and the effect that it's having on this independent board, and then you just got through saying you represent the County, the County Administrator, the County Auditor, the County Attorney's Office. And so we're getting --

MS. WALLACE: And all boards.

MR. HOOPER: -- we feel -- and all boards. But there's a board here that's an independent board.

MS. WALLACE: This board is created by --

MR. HOOPER: I'm not saying --

MS. WALLACE: -- County ordinance.

MR. HOOPER: -- we tax. I'm not saying we tax.

MS. WALLACE: No.

MR. HOOPER: I'm saying we're independent.

MS. WALLACE: And the County has probably, I don't know, 50 --

MS. CASSINI: More.

MS. WALLACE: -- at least, maybe more, boards that are created --

MR. HOOPER: Keep the original language.

MS. WALLACE: -- by ordinance, and they're all represented by the County Attorney's Office.

MS. PENNANT: If I may.

MR. HOOPER: So, yeah, just let me -- so -- so my -- my -- what -- what bothers me a little bit is that when -- I feel like things are changing in a way that -- if I -- if I inherently feel that way, then it -- like sometimes my instincts tell me something's being changed, it

INDEPENDENT TRANSPORTATION SURTAX OVERSIGHT BOARD

DECEMBER 19, 2019

dh/NC

is being changed, and it does affect us. And when I am being advised, or I have no advisor, or I feel like I don't have someone on my side, then it -- then there is -- there's a conflict.

So it's very difficult for an independent board to be -- to be represented by an attorney that represents the side of the -- the side of the other -- the other -- the other group that -- the third party that's changing this ordinance as it affects this board. They can't be -- there -- there can't be independence there. It -- there's conflict. We're having conflict now. By virtue of the last two or three meetings, we're in conflict. So an independent counsel, for me, would just -- it would make me feel a lot better that I'm getting advice that might even align with your advice, but at least it just feels like I've got another side looking at it.

MS. WALLACE: Uh-huh.

MR. HOOPER: And that's really where I go with that. And so I -- anyway, that's all I have to say about that. I'm sorry. Go ahead.

DR. KELLEY: I don't know what I do here (Indicating.)

MR. HOOPER: Hit the -- there you go.

DR. KELLEY: Hello? I appreciate very much what I'm hearing here today. I was absent the October meeting, had to have a root canal, emergency. I wish that on nobody. And I was particularly concerned with the independence issue in terms of the -- well, all these particular changes, but the one that struck me immediately, when I was reading it, was the one about the auditor. And it is hugely important, what we do here in the next -- either in this meeting or in January or February, whenever we resolve this, because it is going to be 30 years, through various administrations.

And I think that all of us, when we were vetted to be on this board and volunteer our time, is because we believed that our opinions and our studies and our efforts bring to whatever the issue is would be, in some respect, independent. So I would agree that we don't need to rush into this. I appreciated hearing that perhaps we need a little time. But, regardless, it makes me uncomfortable to give up what we understood as a measure of independence, however that gets defined. Thank you.

MR. HOOPER: Mr. Coolman.

MR. COOLMAN: Yeah, on this next meeting scheduled for the 7th, what is the -- why do we have to have that -- these amendments on the 7th? What's the urgency?

MS. WALLACE: The Public Hearing on the ordinance -- the proposed ordinance revisions was December, December 3rd meeting, and it was continued to the January meeting --

MR. COOLMAN: Right.

MS. WALLACE: -- to I guess address proposed amendments. And I guess so far there are no third parties. They're all County suggested revisions. The County Auditor is not a third party. So -- and the I guess submission that was sponsored by Commissioner Sharief was intended to address the Oversight Board's requests. So that's not a third party. Those proposed amendments were based upon a meeting that -- and a request from this board with the sponsoring Commissioner.

MR. HOOPER: Yes, Ms. Pennant.

MS. PENNANT: Thank you. Thank you, Alan. On the question of independence, can you speak to the Commission's intent when they came up with the idea of naming the board an Independent Oversight Board? And is there any document, any transcripts, or anything that we could look at so we can get to core intentions?

MS. WALLACE: So there were Public Hearings and there -- so all of the discussions would have been during a County Commission meeting with regard to the ordinance and what the County Commission was, I guess, contemplating. The ordinance had originally been enacted in similar fashion, I guess, in 2016, and the ballot measure did not pass in 2016. It was brought forth again in 2018. And so the -- I cannot speak for the County Commission regarding their intent, but, the meetings, the County Commission meetings, there are transcripts of those and there are recordings of the meetings, and there will be a Public Hearing with regard to the proposed revisions. And, like I said, the County Commission will have an opportunity to provide input where that's concerned. And the -- but -- but --

MS. CASSINI: And clarify.

MS. WALLACE: -- and right. And clarify their intent in response to your particular questions. And what has to be made clear to everyone is that, you know, the organization, the County as an organization, has a Charter, and we're governed by the Charter, and how the organization operates is governed by the Charter, and it's governed by state law and what state law allows. At the same time, on the same day that the Broward County surtax initiative passed, one passed in Hillsborough County, and that particular Charter County transportation surtax was -- arrived on the ballot in a different way.

So the Broward County one was put forth by ordinance of the County Commission and then referendum of the voters. There was a private citizens' initiative that sponsored the surtax that passed in Hillsborough County. But it amended the Charter, and that Charter amendment that their voters did approve, it included an Oversight Board in their Charter and delegated authority that belonged to the County Commission in Hillsborough, under the statute, which is to budget and appropriate the funds, and determined that the

Oversight Board would disburse the money in certain percentages for certain specific projects that ended up being outlined in their Charter.

And they got sued. And that lawsuit is currently pending. And the issue was that it was contrary to law. So you cannot take authority that belongs to the County Commission under a statute and, by Charter or any other local law, assign that responsibility, that statutory responsibility, to another body. And so this -- part of these amendments are to make it clear what the County Commission's role is, what our Charter requires, and what the process entails when we arrive at the decisions that need to be made and how funding is done. So the County Commission budgets and appropriates. The money is in a trust fund by statute. The statute requires a Transportation Surtax Trust Fund. But it is the County's money. And it's a County trust fund. It's part of the County's budget process, and it gets budgeted and appropriated by the County Commission.

MS. PENNANT: Yes, I guess I'm still trying to figure out how the original language would impede or create this lawsuit scenario --

MS. WALLACE: Uh-huh.

MS. PENNANT: -- as you're describing.

MS. WALLACE: So all we can do --

MS. PENNANT: That's not very clear to me.

MS. WALLACE: -- at -- so final decision-making authority is outlined in the Charter, which is a legal document and Florida statute.

MS. PENNANT: Uh-huh.

MS. WALLACE: So we just need to make it clear how this occurs. And so these are proposed revisions, and the County Commission will make the ultimate decision with regard to what, if any, changes are made to the ordinance at the Public Hearing when that Public Hearing occurs.

MS. PENNANT: Okay. One last input, Mr. Chair.

MR. HOOPER: Sure.

MS. PENNANT: Can we see copies of the transcript where the Board had this discussion about independent and what their view of that was?

MS. WALLACE: We can search the minutes of previous County Commission meetings when these matters were discussed and retrieve the transcripts for you.

INDEPENDENT TRANSPORTATION SURTAX OVERSIGHT BOARD

DECEMBER 19, 2019

dh/NC

MS. PENNANT: Yeah, I think we need to have some sense of what their intentions were.

MR. HOOPER: Ms. Cassini, did you want to say something? And then you, Mr. Coolman.

MS. CASSINI: Thank you, Mr. Chair. I did actually just want to make one comment, and that is that when the original ordinance was being drafted, back in 2016, I did have an opportunity to participate in some discussions that go to the CITT in Miami and the way that that board was structured, and the way it's selected. So there was some very -- there was a plan to try to create two layers of separation from politics, which is what I was alluding to previously.

When the board members of an independent authority are directly appointed by County Commissioners, it has created issues in other jurisdictions, not just in Miami-Dade County. And so one of the reasons for having the Appointing Authority in the ordinance and having that Appointing Authority select the members of this group, and having such very clear conflict of interest elements was to assure independence of this group from contracts, relationships, and also from that direct appointing relationship with a County Commission.

I'd also just like to respond to one of the comments that was made about the participation and the ability for our municipal partners to receive information about the proposed amendments. I think one of the things that you all should be incredibly proud of, and that I've heard from various members of the community is very -- very much appreciated is that your meetings are webcast. The materials that you're considering are broadcast. They're posted ahead of time, and they're noticed. I send out email notices with all of the materials to a wide variety of our community stakeholders, including cities, and there are many city staff that come to every Oversight Board meeting. And this has been on both the September and October Oversight Board meeting agendas and webcasts.

MR. HOOPER: Just real quick, Mr. Coolman. The reason you're getting such frank conversation I think is because of the Appointing Authority. So that -- I think that's one -- of the reasons -- right. Go ahead, Mr. Coolman.

MR. COOLMAN: Yeah, with the exception under Item K of the original ordinance, changing the 90 to 180 days is something we have discussed needs to be done because it's practical. And with the exception of the ordinance did not contemplate appeals, it seems to make sense. Everything else needs to stay the way it is.

I assume the way it was was legal and bound, and if it needs some clarification, that's fine, too. But I'm still unsure why this has to go so fast. But if it has to go, change the 90 to 180, add the other, and leave the rest the same.

MR. HOOPER: So let's do that. Let's -- all right. We've just talked about staffing, okay? And I understand the Charter, the way the Charter has to -- requires that these things get processed. And I honestly -- I believe that if we left the language on G the way it is, or if we recommend that we leave the language the way it is on G, and if the County -- the County's going to make the decision in the end, but if they wanted to add a sentence that said something on how it gets administrated as per the Charter, the County's Charter, that's it. That's what we should propose on this. I don't think I can make a motion, but, anyway, that's -- so can we get some sort of a motion on this first -- for our recommendation on this first portion of the -- G, staffing? Anybody want to take a shot at that?

MR. COOLMAN: I will.

MR. HOOPER: Okay.

MR. COOLMAN: The **motion** is to amend -- amend the original ordinance language under Item G to add clarification, per Alan's comments.

MR. HOOPER: All right. Can you -- can you --

MS. CASSINI: I believe what I've heard consensus around is leaving G as it was, the entire first part -- and I'm going to go back just, again, for clarity for those who are participating in the audience and on webcast. So this entire section would remain the same, and with a clarifying statement subsequent explaining what the actual process is around budget. And if there needs to be a citation or reference to the Charter, that could be added. And I'm just looking to make sure that what we wrote down is what you intended for us to hear, so --

MR. HOOPER: So what I don't want to see happen is that it goes to the County, following whatever process or protocol is dictated by the County Charter. What it shouldn't say -- and, depending on where it goes and how it has to go, and if it has to go through the County Administrator's Office, fine, it'll do that. But it shouldn't say that it -- it gets requested and then that somebody in between us and the County Commission --

MS. WALLACE: Uh-huh.

MR. HOOPER: -- decides whether or not it actually happens, either by saying, may recommend to the County Commission. It should just go to the County Commission and then they can be the decision-maker as to what happens with the budget at that point. But -- but --

UNIDENTIFIED SPEAKER: (Inaudible.)

MR. HOOPER: -- so it has to be very clear. Yes.

MR. ALLEN: Let me just throw out a proposed language here. At the end of the sentence, you just would add subject to County Charter appropriation and procurement requirements.

UNIDENTIFIED SPEAKER: I like that.

MR. HOOPER: I think that's great. Do you want to --

DR. KELLEY: I agree.

MR. HOOPER: -- want to make that amendment?

DR. KELLEY: The good thing about that is that, you know, we're here to deal with transportation related issues and not budget issues, which all of those procedures may change in the next 30 years, you know. So subject to whatever's appropriate. We don't need to add any more.

MR. COOLMAN: I accept that amendment.

MR. CAVROS: I second it.

MR. HOOPER: Okay.

MR. COOLMAN: I would make the **motion**, then, to -- to amend it, and it's been seconded.

MR. HOOPER: Okay. Great. All right?
So all those in favor?

MS. PENNANT: Well, I want to make --

MR. HOOPER: Do you want to speak -- do you want to speak to the motion?

MS. PENNANT: Yes, I do.

MR. HOOPER: Sorry about that.

MS. PENNANT: I do.

MR. HOOPER: I'm sorry. I thought we were --

MS. PENNANT: I want to -- I want to make sure that this amended language being proposed is in line with your intention originally to make sure that the County's not vulnerable to a lawsuit. Is what you're hearing being proposed, will that take away the threat, essentially, of a potential lawsuit?

INDEPENDENT TRANSPORTATION SURTAX OVERSIGHT BOARD

DECEMBER 19, 2019

dh/NC

MS. WALLACE: So the amendment, Mr. Allen's amendment, includes subject to County's, I guess, established procedures. He outlined the County Charter, budget, and procurement procedures, and then Dr. Kelley said, well, you know, without delineating all of those sections, just saying subject to established County procedures.

MS. PENNANT: Right.

MS. WALLACE: Is that what the two --

DR. KELLEY: (Inaudible.)

UNIDENTIFIED SPEAKER: What's that? Sorry.

MS. PENNANT: So does that satisfy your need to --

MS. WALLACE: So as long as it's subject to --

MS. PENNANT: -- the legal --

MS. WALLACE: -- the County requirements --

MS. PENNANT: -- fine to me, essentially.

MR. ALLEN: Wouldn't it be helpful to deal with a potential Hillsborough-like challenge --

MS. WALLACE: Uh-huh.

MR. ALLEN: -- to specifically reference the Charter?

MS. WALLACE: Yes, that would be helpful. So Mr. Allen's amendment includes subject to the County Charter, budget, and procurement procedures. And that would cover what the County would need from a legal perspective.

MR. HOOPER: Yes. Ms. Cassini.

MS. CASSINI: I was just going to remind the group that we did talk about this back in October --

MS. WALLACE: Uh-huh.

MS. CASSINI: -- that if for some reason -- again, your recommendations, your requests, just as when you wanted the futurist to come down, the consultant, they process through me. If we have funds available already that have been approved by this body -- again, every proposed expenditure and proposed project has to be

approved by you and found eligible. So if those funds exist, then we utilize those funds to try to meet your needs for consulting services and staffing services, as well. But I just wanted to let you know that -- that those would be packaged in the capital budget request with all of the other surtax related requests --

UNIDENTIFIED SPEAKER: Uh-huh.

MS. CASSINI: -- and if, as we've discussed before, your requests in any way were not met, let's say 80 percent of your requests were recommended but 20 percent weren't, you would still, as Angela mentioned earlier, have the opportunity to ask directly to the County Commission for those things, and the County Commission could decide to provide those to you. That is the process.

MR. HOOPER: I know. But I think that language was put in there the way it was so that we wouldn't go through the brain damage of what we're going through today, to be honest. So it's pretty clear what would happen if we asked for money. Or staff. Okay. So we have a new amendment. And I'm going to make one more -- I just -- I think it should say -- I'm sorry, but it feels broad, and I don't know what is in your Charter and in your procedures, but like -- after what you just added to it, to push the thing forward, to - - I'm -- I don't -- I'm not a good wordsmith -- to just procedurally --

UNIDENTIFIED SPEAKER: Direct.

MR. HOOPER: -- can someone help me? A lawyer, maybe? But I wanted to say so that it comes -- it pushes it forward. It pushes it to the end. So what would you say if you were saying -- you know what I'm saying?

MS. PENNANT: (Inaudible) procedure.

MS. WALLACE: No. So and we have --

MR. HOOPER: To --

MS. WALLACE: -- okay, a motion. Are you amending Mr. Allen's motion or --

MR. HOOPER: I just -- I -- so can we read the motion again?

MS. WALLACE: And a motion and a second.

MR. HOOPER: Could we read it again, please?

MS. WALLACE: Mr. Allen, would you --

MR. ALLEN: I would just remove the period at the end, responsibilities (inaudible) subject --

THE REPORTER: Turn on the microphone. Microphone, please.

MR. ALLEN: -- and add at the sentence -- at the end of the sentence, subject to County Charter, appropriation, and procurement requirements.

MR. HOOPER: So what I worry about is the word, subject. Okay? Because it -- subject could hit a brick wall.

MS. PENNANT: How about consistent?

MR. COOLMAN: How about per?

MR. HOOPER: No, it's like in order to procedurally administrate following County Charter regulations or something like that.

MS. WALLACE: That's what it means. That's what subject to --

MR. HOOPER: That's what subject to --

MS. WALLACE: -- means.

MR. HOOPER: -- means?

MS. WALLACE: Yes. Subject --

MR. HOOPER: That's what subject --

MS. WALLACE: -- to --

MR. HOOPER: -- to means.

MS. WALLACE: Yes.

MR. HOOPER: It doesn't mean it's subject to -- okay. All right. Then that's fine.

MS. PENNANT: What about consistent with?

MR. HOOPER: No, that's fine. If that's what subject to means and we've got it on the minutes --

MS. KELLEY: In accordance with.

MR. HOOPER: Is there any --

MR. COOLMAN: It's all the same.

MS. PENNANT: Or consistent with.

MR. HOOPER: Is it good?

MS. KELLEY: In accordance with.

MR. HOOPER: Okay. That's another reason why I wish I had a lawyer.

MS. PENNANT: No, I hear you. I hear you, Alan.

MR. HOOPER: Okay. All right.

MR. ALLEN: Can I call the question?

UNIDENTIFIED SPEAKER: (Inaudible.)

MR. HOOPER: Yeah, go ahead.

MR. ALLEN: I'd like to call the question.

MR. HOOPER: Okay. All right. All -- all those in favor? Those opposed?

MS. PENNANT: I want the language, subject to, change to consistent with.

MS. WALLACE: Well --

MR. HOOPER: You have to vote.

MS. WALLACE: -- we need to know who voted on this --

MR. HOOPER: Yeah, yeah, yeah.

MS. WALLACE: -- last one. So we had a motion, a second, and the vote was called. Dr. Kelley, what was your vote?

DR. KELLEY: Either consistent with or in accordance with.

MS. WALLACE: No, the vote that was -- that was taken, which is subject to County Charter, appropriations, and procurement requirements.

DR. KELLEY: No. I'm with Mr. Pennant, either in accordance with or consistent with.

MS. WALLACE: So did you vote no?

MR. ALLEN: You vote no, then.

DR. KELLEY: No.

MR. HOOPER: Mr. Allen.

MS. CASSINI: Because there were no noes.

MS. WALLACE: Right. We didn't hear any noes.

MS. PENNANT: Well, then I'm saying no, as well –

MS. CASSINI: And we're not hearing from the people on the line.

MS. PENNANT: -- because I believe that that word subjected to, the same kind of irk that you get with it, I do, too. So --

MR. HOOPER: Okay.

MS. PENNANT: -- (inaudible).

MR. HOOPER: Mr. Allen, how'd you vote?

MR. ALLEN: I voted aye.

MR. HOOPER: I'll vote no.

MS. PENNANT: I vote no.

MR. COOLMAN: I voted one way, but I'm voting nay now.

THE REPORTER: Would you repeat, Mr. Coolman?

MR. COOLMAN: It's a no.

MR. CAVROS: I'm -- I'm sorry. What is the question on the table?

MR. HOOPER: One, two, three, four. It -- it fails.

MR. COOLMAN: We need to have a new motion.

MS. PENNANT: We just need to reword it and use consistent with, in accordance with.

UNIDENTIFIED SPEAKERS: (Inaudible.)

INDEPENDENT TRANSPORTATION SURTAX OVERSIGHT BOARD

DECEMBER 19, 2019

dh/NC

MS. PENNANT: I think the -- I hear you, Alan. There's something about it. It almost sounds like it's being projected on you.

MS. CASSINI: We need to get --

MR. HOOPER: Go ahead.

MS. CASSINI: -- the votes on the phone, too.

MS. PENNANT: So reword.

MR. HOOPER: Go ahead --

MS. PENNANT: Resubmit your motion.

MR. HOOPER: -- Mr. -- Mr. Cavros, yes or no?

MR. CAVROS: So --

MR. ALLEN: My motion failed.

MS. PENNANT: Yeah, but re- -- you can re- -- retool it. We're just asking for a word change.

MR. CAVROS: Well, if the question is how I voted on -- on the first motion --

MS. WALLACE: Yes.

MR. CAVROS: -- I voted yea. But I'm certainly willing to entertain an --

MR. HOOPER: Okay.

MR. CAVROS: -- amendment to it.

MR. HOOPER: All right. So that's --

MS. WALLACE: So that one failed.

MR. HOOPER: -- that's fine.

MS. WALLACE: Right?

MR. HOOPER: Okay. It failed.

VOTE DOES NOT PASS.

MR. HOOPER: So make another motion.

MS. PENNANT: So I'd like to make a **motion** to change the ending language as previously proposed by Phil Allen, changing the word subject to to consistent with.

MR. CAVROS: I second the motion.

MR. HOOPER: Okay. Let's just go through a roll call then.

DR. KELLEY: I vote yes.

MR. HOOPER: Okay.

MR. ALLEN: Aye.

MS. PENNANT: Aye.

MR. HOOPER: Aye.

MR. COOLMAN: Aye.

MR. CAVROS: Aye.

MR. HOOPER: Shea Smith and Ms. Love, how do you vote?

MR. SMITH: I approve.

MR. HOOPER: Ms. Love?

MS. LOVE: Approve.

MR. HOOPER: Great. Thank you.

THE COURT REPORTER: Did you say, oppose?

MS. LOVE: Approve.

MR. HOOPER: Approve. Approve. So we're going to move forward --

MS. WALLACE: It passed.

MR. HOOPER: -- with that recommendation to the County Commission.

VOTE PASSES UNANIMOUSLY.

MR. HOOPER: Let's go to the portion about the attorney -- County Attorney advice. Do you want to give us a quick overview of that, please?

MS. WALLACE: Yes. The proposed ordinance revision with regard to eligible -- approval of projects and expenditures. The existing ordinance language says the Oversight Board shall determine whether proposed -- the proposed project or proposed expenditure is permissible under section 212.01 -- 055(1)(d) Florida Statutes. If the Oversight Board determines that it is permissible, the Oversight Board shall approve the proposed project or proposed expenditure and shall send written notice thereof to the Broward County Administrator.

The written notice of approval may contain recommendations made by the Oversight Board regarding best practices or other methods that may be employed to improve the proposed project or expenditure.

MR. HOOPER: Is that what we're proposing?

MS. WALLACE: Okay. So now the --

MR. HOOPER: Is that the new amendment?

MS. WALLACE: There it is. Okay. So the proposed ordinance, I guess, did not include the section that is kind of bolded at the bottom. So it started out as if the Oversight Board concurs, the County --

UNIDENTIFIED SPEAKER: That's the wrong one.

MS. WALLACE: -- with the County staff -- because what happens is, based on the amendments -- I guess I need to clarify -- the actual agreements between the County, the MPO, and the municipalities, there's a procedure that outlines the processes. And it's a staff process. The existing ordinance says that the County Commission will approve projects with the -- which the County Commission did as part of the transportation plan. And once the County Commission approves those projects, they come to the Oversight Board for an eligibility determination.

The process outlined in the interlocal agreements is that there's a staff review process at the MPO and internally with the County of projects and expenditures, both municipal and County. And the staff makes recommendations with regard to those projects, and those projects are presented to the Oversight Board for an eligibility determination prior to being submitted to the County Commission for budgeting.

So -- and that process, when it was outlined in the proposed ordinance, did not include - - did not transfer from the original language or the existing language the portion with

INDEPENDENT TRANSPORTATION SURTAX OVERSIGHT BOARD

DECEMBER 19, 2019

dh/NC

regard to written notice of approval may contain recommendations made by the Oversight Board regarding best practices or other methods that may be employed to improve the proposed project or expenditure. And now that is being included in -- at the request of the Oversight Board, it's being added as a proposed amendment by Commissioner Sharief. It's one of her -- so that's consistent with the request from the Oversight Board. Okay.

MS. CASSINI: I'm sorry. Let me go back.

MS. WALLACE: But the other section was with regard to based upon the advice of.

MR. HOOPER: Yes.

MS. WALLACE: And I think that was in the eligibility determination, right, in H.

MS. CASSINI: Right.

MS. WALLACE: So the Oversight Board shall review written appeals. So there's an appeal process, and I think Mr. Coolman mentioned that earlier, that is being added to the ordinance that did not exist such that if staff determines that there -- or if the Oversight Board determines that there's -- I guess, staff determines that the -- that a project is not eligible, that a city can -- a municipality can request review by the Oversight Board, an appeal, a written appeal, by the municipality, and will make a determination with regard to eligibility.

And what's added is there after the -- the section related to the Oversight Board reflects that the Oversight Board will, in consultation with and based upon the advice of counsel, make the eligibility determination. And there was concern that that was not consistent with the section with regard to the County Commission and when the County Commission reviews, as part of that appeal process.

And so to make those provisions consistent, when we met with -- when the Oversight Board's letter, correspondence was presented and we had the meeting with Commissioner Sharief, there was a discussion with regard to how those decisions are made, at least from her perspective, when there are legal issues presented to the County Commission.

And what the Commissioner indicated was that when there are legal decisions that are to be made, she personally, you know, relies upon and makes her decisions based upon the advice of counsel, and was willing to insert that language as part of one of her amendments that she was willing to sponsor in the -- her proposed amendment. So rather than removing it from the section related to the Oversight Board, in order to make them consistent, she's proposed adding that language to the section related to the County Commission.

INDEPENDENT TRANSPORTATION SURTAX OVERSIGHT BOARD

DECEMBER 19, 2019

dh/NC

MR. ALLEN: Mr. Chairman.

MR. HOOPER: Yes. Yes, go ahead, Mr. Allen.

MR. ALLEN: I appreciate the explanation that Angela has given us, but that was not the intent of the motion that we made at the last meeting, which was to remove the language as it relates to based upon the advice of the County Attorney. To turn around and add that to what the County Commission authority is to approve changes or approve statutory requirements missed the point of my concern, which was the language that says, based upon the advice of the transportation surtax general counsel.

MS. WALLACE: Uh-huh.

MR. ALLEN: I would ask Angela to give a definition of what based upon means.

MS. WALLACE: Uh-huh. Okay.

MR. ALLEN: Does that mean that if the Oversight Board or, as proposed here, the County Commission has questions relative to the statutory provisions and they have two arguments in front of them, one from the city or from the applicant, and one from the County Attorney, you're -- you're taking the authority away from both the independent board, the Oversight Board, as well as the County Commission to say you're going to base your decision only on what the County Attorney or, in our case, the surtax attorney, says is available.

Is that what based upon -- so, I mean, if the County Attorney gives us an opinion that says this does not meet or this does meet statutory requirements, and this board, in its process, determines that they don't think that's right, do they have the option to reject that and say that the project doesn't meet the requirements or the project does, contrary to the position of the County Attorney?

MS. WALLACE: So if this board gets -- makes a -- votes in a manner that's contrary to the legal advice given, it will likely be escalated to the County Commission. Well, either way. I mean, if the board -- if this body determines that it's not eligible and the municipality decides to proceed, they appeal to the County Commission, and the County Commission will, you know, consult with the County Attorney.

And the Commissioner that -- with whom we spoke said that the decision would be based upon the advice of counsel. And then, at that level, if there's still a dispute with regard to eligibility, it gets escalated through the process that's outlined here, which is the Office of the County Attorney may request an opinion from the Florida Department of Revenue, where it administers these funds, and the Florida Attorney General. So I guess there is the possibility that one of the bodies, this body or the County Commission, I guess, if they wanted, could make a decision that's not consistent with the advice given, and it would end up being escalated.

INDEPENDENT TRANSPORTATION SURTAX OVERSIGHT BOARD

DECEMBER 19, 2019

dh/NC

MR. HOOPER: Was there ever any language that spoke to this?

UNIDENTIFIED SPEAKER: No.

MS. CASSINI: No, Mr. Chair.

MR. HOOPER: Okay.

MS. CASSINI: I -- that's why, at the top, the original ordinance did not contemplate appeals. So there are a lot of things, as we've talked about, we're adding into the ordinance that are trying to create alignment with interlocal agreements and also add opportunities for municipalities or even the County, in some instances, to appeal decisions along eligibility.

The chair of the Appointing Authority, we -- there was, as Angela mentioned, there was a discussion about this yesterday, and I mentioned to them, and he thought that it may be helpful to hear from you -- for you all to hear it as well, that because a determination of -- determination of eligibility under statute is a legal decision, that basing it upon advice of counsel at this level and the County Commission level makes sense, because if it were to be appealed into the court system, then the County Attorney's Office has to provide the defense for the decision.

They would be defending you, so making sure that you received that and that your actions were based upon that, even if you took a conflicting action, it helps support the position, if necessary.

MR. HOOPER: But if a city, let's say, has one opinion -- I mean, it's almost like you're saying that the statute is the statute is the statute is the statute, and there could no -- be no other opinion. That it's only this, and it's very -- I'm just saying.

MS. CASSINI: No, no, no.

MR. HOOPER: So then if we are the independent board, why are we making our decisions based on the County? Why would we not -- why wouldn't we add language that says it's based on the surtax counsel? And -- because I just think, like, it puts us in a position where we're -- we're listening to an appeal; right? We're listening to an appeal, and it would be the -- a city project that's being appealed; correct? And now the city's looking at it, like, well, we're going to go to the independent surtax board, but they're -- they've got the County's attorney giving them the advice, and they have to make their decision based on that advice, and then it's going to go to the County Commission, and then it's going to be the County Attorney giving them advice. So it's like why wouldn't we do it -- why would we do it that way? Why even come to us on an appeal if that's how we're going to handle it?

MS. WALLACE: The statute -- an interpretation of a statute is a legal determination. And we look at what has occurred with this body when it has come to approving proposed projects and expenditures every time. We've put up the statute, and I've read the section of the statute, and I've indicated that the proposed projects -- and we've made sure they're outlined and they're categorized, you know, based upon what's in the statute. That's what occurs. It's a legal determination. And so the recommendation for the ordinance, and this is for the County Commission to consider, is whether the County Commission will add, based up on the advice of counsel in the ordinance.

MR. HOOPER: Mr. Allen?

MR. ALLEN: As I've said before, I respect wholeheartedly your legal positions on matters, and I have relied upon your advice for years and years. I'm dealing with the issue of what is independence. Is independent authority or independent review the County Attorney's Office or the surtax counsel? I think you can get there with different language rather than saying based upon. And I would -- one thing that I would throw out is that in consultation with and consideration of the advice of the transportation surtax general counsel. That at least provides some -- you know, some window there that -- that there is some element of independence in this board.

MR. HOOPER: And that's not to say that we're not going to use Ms. Wallace's advice for consideration. I like that. I like the way you -- you did that. Is there any other discussion? Do you want to make a motion?

MR. ALLEN: You've got audience.

MR. HOOPER: Oh. Okay, sure. Come on up. I'm sorry. The Mayor of Weston. What was your -- I'm sorry.

MAYOR STERMER: It's okay, Mr. Chair. Daniel Stermer.

MR. HOOPER: Daniel Stermer.

MAYOR STERMER: Mayor of Weston and President of the Broward League of Cities. We appreciate the appeal process. Whether something comports with the requirements of the statute probably isn't a difficult conversation, because when we discussed this back in 2016, we were coming up with and devising a form that before the request left the municipality, when the municipality voted on it, there would be a check the box that the City Attorney made a determination that it did.

So it's not just the City Commission saying, hey, we believe it's so. You'd have city staff -- administrator/manager -- and City Attorney. So by the time it got to you, you'd already have one lawyer -- granted, it's a municipal lawyer. I got it. No different than the County Attorney's Office, in reality, other than title. And I respect Ms. Wallace. She knows that. This isn't about Ms. Wallace. This isn't about Mr. Meyers or their organization. But Mr.

INDEPENDENT TRANSPORTATION SURTAX OVERSIGHT BOARD

DECEMBER 19, 2019

dh/NC

Allen knows, with his experiences over years, you're talking about the concept of independent counsel. And, Mr. Hooper, you've been talking about it all morning. I'll draw the analogy. And my analogy to the Office of the Inspector General was about their requests for budgets and they're never tinkered with. I understand they're in the Charter. I'd also ask you to look at the Charter Review Commission, who has independent –

MS. WALLACE: It's in the Charter.

MR. STERMER: -- but has also independent counsel. I got -- you can ask the County Attorney to provide you with -- or work with the County Attorney's Office to get independent counsel. And if this item was before the County Commission last month, got deferred to next month, why can't it get deferred again? And I would humbly suggest that, since you're amending language today, that you review it before it goes forth to the County Commission and approve it, or ensure that all of you are at the County Commission meeting to speak on it. Because if we just stand there as local governments, sometimes there's a tension. There is.

But you sit there -- and I ask this question respectfully, as well, of what's the Appointing Authority still doing making recommendations? They appointed you. Their jobs, that's what their job was, to appoint you from a wide group of individuals as -- you know, as chosen. Your job is to decide what should be going forward. Thank you, Mr. Chairman.

MS. WALLACE: Okay.

MR. HOOPER: Thank you, Mr. Stermer. I can tell you that yesterday they met I think to appoint a couple of new board members. And then they, as the public, they can -- they can also make recommendations.

MS. WALLACE: Thank you, Chair. So, yes --

MR. HOOPER: Go ahead, Ms. Wallace.

MS. WALLACE: -- the Appointing Authority meeting yesterday was to consider applicants for an existing vacancy on the Appointing Authority. And members of the Appointing Authority were aware of the proposed revisions to the ordinance and wanted to have a discussion about them and weigh in, so they did, which they were able to do. And just a point of clarification with regard to the Charter Review Commission, it's within the Charter. It is a body that's established by -- that's in the -- included in the Charter, just like the Inspector General, the County Administrator, the County Attorney, and the County Auditor.

MR. HOOPER: Okay. What I don't want to do is respond to the public's -- unless it has something to do with what we're trying to consider, because, yeah, you're going to hear a lot of things, but we don't need -- I want to move -- I want to get this going.

MS. WALLACE: I understand that, but there are some -- I mean, it's important to address misinformation or things that can be misconstrued --

MR. HOOPER: Right.

MS. WALLACE: -- at the point -- to -- and clarify the record.

MR. HOOPER: Okay. Mr. Allen, you --

MR. SMITH: Mr. Chair, can I ask just a --

MR. HOOPER: Yeah, go ahead.

MR. SMITH: -- procedural question --

MR. HOOPER: Sure.

MR. SMITH: -- before we move forward? So to the point that was just made by the Mayor, you know, we're already past the scheduled time for this meeting. I can keep going until about 12:30. I've got a partner meeting down here in Miami to attend. I do want to kind of just bring up the topic of how long we think this is going to go and what actions we think we'll take with the rest of these items. They obviously take some time to go through. I mean, I think we're making strides, but can we just pause for a minute and just talk procedurally about what we're going to -- how we're going to end this today?

MR. HOOPER: So can I tell you, so I think -- I think we're close on this particular item. In my letter to the County, based on what this board decided in October, we did not agree to the Auditor and the type of language that's being proposed today. So I'm hopeful that that discussion moves rather quickly, because I think that that has a lot to do with our ability to do our job. So I'm tight for time, too, but we'll still have quorum. I mean, I'd like to get this done, okay? And if the County Commission is going to hear this on January 7th with or without our recommendation, then I want to get our recommendations in. I tend to agree with the Mayor. I think that another two weeks wouldn't hurt, you know, to -- or a month. But it's the decision -- it's up to the County Commission. It's on the agenda. So let's try to get our work done. Is there anybody that wants to speak on this -- this second item? Mr. Allen, you made a pretty good --

MS. PENNANT: Motion.

MR. HOOPER: -- well, you kind of --

UNIDENTIFIED SPEAKER: Uh-huh.

MR. HOOPER: -- spelled it out pretty well on how you'd like to see it. Can you repeat that?

MR. ALLEN: Item I, not K.

MR. HOOPER: The one about the attorney, on the -- on the advice of the attorney. On the -- based --

MS. WALLACE: Right.

MR. HOOPER: -- on the advice of the attorney.

MS. WALLACE: I think Mr. Allen added after, in consultation with, he put, and in consideration of the advice of counsel, rather than based upon. Is that --

MR. ALLEN: And that would be added to both sections, both for the County Commission as well as the Oversight Board.

MS. WALLACE: And that's -- I guess that's his motion.

MR. HOOPER: But I think that it should say not the County Attorney, but it should say the surtax counsel, which could be you --

MR. ALLEN: There's --

MR. HOOPER: -- or it could be --

MR. ALLEN: -- there's two sections.

MR. HOOPER: Oh, there is?

MR. ALLEN: There's the one that applies to the County Commission, which is the --

MS. WALLACE: Correct.

MR. ALLEN: -- County Attorney.

MS. WALLACE: Correct.

MR. ALLEN: And there's the one that deals with the Oversight Board, which is the surtax attorney.

MS. WALLACE: Correct.

MR. HOOPER: Okay.

MR. ALLEN: And I would --

MS. CASSINI: This is the Commission one --

MR. ALLEN: -- they would consistent then.

MS. CASSINI: -- and that's the Oversight Board one.

MR. HOOPER: Okay. I agree with that. So --

MS. WALLACE: We just need a motion and a second.

MR. ALLEN: That would be the **motion**.

MR. HOOPER: Do we have a second?

MR. CAVROS: Second it.

MR. HOOPER: Okay. Mr. Cavros seconded it. So let's just go down the beginning of the table. Do you want to take a roll call for us, please?

MS. CASSINI: Dr. Kelley. Aye? Okay.

MR. ALLEN: Aye.

MS. PENNANT: Aye.

MR. HOOPER: Aye.

MR. COOLMAN: Aye.

MR. CAVROS: Aye.

MS. CASSINI: And then for those on the phone please, would you please indicate aye or nay?

MR. SMITH: Aye.

MS. LOVE: Allyson. Aye.

MS. CASSINI: Thank you both.

MR. ALLEN: I need to take a break? I know there's a quorum but --

MS. WALLACE: Motion carries, yes.

VOTE PASSES UNANIMOUSLY.

MR. ALLEN: Can we take five minutes?

MR. HOOPER: Okay. Yeah, Shea'll step off at -- at 12:30, but we're going to have to take five minutes, Shea. We've got two board members that need to use the restroom.

MR. ALLEN: I didn't say where.

MR. SMITH: Okay. Fair enough.

MR. HOOPER: Well, she's -- okay. They've got to go make a phone call. Okay. Thank you.

MR. SMITH: Okay.

MR. HOOPER: We're going to take five minutes. Thank you.

(THE MEETING RECESSED AT 12:18 P.M. AND RECONVENED AT 12:24 P.M.)

MR. HOOPER: Okay. Can we move to the next section, which I think addresses audits, please?

MS. WALLACE: Okay. So the original language, Section K, annual audit, the Oversight Board shall retain an independent certified public accountant to perform and complete annual audits of all projects funded with transportation surtax proceeds and of all transportation surtax proceeds received, maintained, and expended.

The audit results may be submitted to the Oversight Board and the Broward County Administrator no later than 90 days after the end of each calendar year, which may -- during which any transportation surtax proceeds are expended. Okay. So you may recall, we had meetings, and Mr. Allen had -- you know, at Mr. Allen's request, we had the outside auditor that conducts the independent audit that's required by statute come. And there's a -- the external auditor that does the annual statutorily required financial audit is going to do separate financials for the surtax, and it will be included in that external audit.

And I know that was the subject of discussion. So 2 just pulls that out. And so that wasn't an issue. That just addresses that external audit that's required by statute and how the surtax funds will be dealt with in there. And so 1 is where the other audits are -- reviews would be covered. And so that one says the Oversight Board may retain -- and that's a strikethrough on that A --

MS. CASSINI: (Inaudible.)

MS. WALLACE: -- performance auditing and financial review services related to transportation surtax proceeds as provided in G. And I think we talked about that. That's a section where the County Auditor -- I mean the County Administrator goes through the process that's our internal process, okay? So there are -- and I guess what has occurred since then, and I know there was a presentation at one of your monthly meetings, and I don't recall if it was September or October -- I think it was September --

MS. CASSINI: September.

MS. WALLACE: -- when the County -- the internal auditor made a presentation and offered his services to the Oversight Board for the purpose of performance and financial audits. And I guess since the proposed ordinance was I guess published, the County Auditor reviewed it and has requested -- had submitted a request, through a proposed amendment for consideration by the County Commission, that adds an auditor element to the ordinance, and it's, you know, I guess subject to consideration by and approval of the County Commission.

So in addition to where it says that you -- you know, as provided in Section G above, the County Auditor is proposing adding the sentence beginning however -- however, prior to the County engaging such services, the oversight -- for the Oversight Board, the Office of the County Attorney [sic] shall have the right of first refusal to directly provide such services with existing County resources. That's his first request. And then the -- his second request becomes 3, and we just eliminated 2, because that's not at issue.

So that there would be -- to -- so that the County Auditor's requests are combined on the same screen. So 3 is the County Auditor's other request, which is the Office of the County Auditor shall provide oversight regarding the selection of all external audit services retained by the County for projects funded by the transportation surtax proceeds, and shall serve as the Contract Administrator in connection with all such contracts for external audit services. So those are requested by the County Auditor, and whatever feedback this board wants to provide, we will ensure that that gets relayed.

MR. HOOPER: Ms. Pennant. And then Mr. Allen.

MS. PENNANT: Self-preservation is really at hand here, it seems. Well, this Oversight Board intends to self-preserve, and so I will tell you that I am not in agreement with anything that does not include language that says, as is stated in the original ordinance, the Oversight Board shall retain an independent certified public accountant to perform and complete annual audits over all projects funded with transportation surtax. And so -
-

MR. HOOPER: So that's the original language.

MS. CASSINI: No, that's not --

MS. PENNANT: -- that's the original, retain an independent certified.

MS. WALLACE: But this body already voted on what is now the proposed paragraph 2, which is the external audit or conducting the annual -- the annual single audit for the County that encompasses all the County funds. So it's -- go back to the other screen.

MS. CASSINI: Yeah, they had already (Inaudible.)

MS. WALLACE: So what's -- what is paragraph 2, this body has already agreed to.

MS. PENNANT: Right. But -- but this -- this here -- well, in light of all our discussions, previously, where -- with this whole independence being abdicated, I think it's really important that we insert the word independent certified -- whether it's performance or --

MS. CASSINI: Oh, I see. It's in 1. I didn't -- she's talking about in 1.

MS. PENNANT: -- I think the language needs to change to include independent -- because now it's been taken out. It just says retain a performance -- retain performance auditing and financial review --

MS. WALLACE: Review services, right. So that would be outside entity, right. So the way 1 is written now, it's outside. It's not in -- it's not internal. And what we --

MS. PENNANT: It doesn't say that.

MS. CASSINI: I've captured your request.

MS. WALLACE: Yeah. Retaining services, yeah, as --

MS. PENNANT: So --

MS. WALLACE: -- provided in Section G would be outside services, not internal. So what the County Auditor is requesting, if we go to the next slide, is just -- it's in addition to what's in that provision. And we just -- we're just seeking I guess your input, this body's input with regard to the County Auditor's request so that that information can be relayed.

MS. CASSINI: So if you wanted to make a motion, I think once the discussion has happened, what I'm hearing is that you would insert the word, independent, where the word, A, is current stricken --

MS. PENNANT: Correct. Right.

INDEPENDENT TRANSPORTATION SURTAX OVERSIGHT BOARD

DECEMBER 19, 2019

dh/NC

MS. CASSINI: -- in the underlined area in subsection 1 to be --

MS. PENNANT: Correct.

MS. CASSINI: -- consistent with subsection 2.

MS. PENNANT: Correct.

MS. CASSINI: Okay. So when the time comes. I understand your request.

MS. PENNANT: Correct.

MR. HOOPER: Mr. Allen.

MR. ALLEN: Mr. Chairman? Yes. Maybe we can deal with it from the bottom up. Paragraph 3 that's been proposed by the County Auditor, he already has that authority under the Charter. He's already the Contract Administrator for external audit services. And, you know, his office, both the overall financial audit as well as any other auditing services, he is named under the Charter as being the Contract Administrator. So we don't need to add that here. It's already covered by the Charter.

Secondly, the issue of a performance audit, while I think we have said -- or talked in the past about there may be a role for the auditor, the County Auditor to participate in performance reviews or even in some certain financial audits, that is a right that we retain to make that decision, not subject to his determination as a right of first refusal. We need to pick a qualified firm. The County, through its process, needs to contract with the auditing firm that has the expertise.

At some point in time, the internal auditor may, in fact, gain some expertise in that regard or national and international transit trends or transportation projects. That doesn't exist, in my view, right now. But we need to have the right to make that determination ongoing, and not --

MR. HOOPER: Uh-huh.

MR. ALLEN: -- give up that -- the right of first refusal.

MS. CASSINI: Mr. Chair -- okay.

MR. HOOPER: Mr. Cavros wanted to speak, and then then we'll go to you.

MS. CASSINI: Sure.

MR. CAVROS: I agree with Mr. Allen. I am not supportive of the Auditor's amendments to paragraph 1 and -- and this new paragraph 3. And also, I'm going to have to take the

rest of the meeting by phone.

MR. HOOPER: Okay.

MR. CAVROS: I'm going to have to transition to phone. So thank you.

MR. HOOPER: No problem. Ms. Cassini.

MS. CASSINI: I just wanted to let this board know that we did invite the Auditor to come and speak to these amendments. They are not available. And, again, I just wanted to remind both this board and the public that are participating that the County Auditor requested and was granted a full-time position funded with surtax dollars to do and perform audits of the entire program starting in fiscal year 2020. So that will continue to be a function of the County Auditor's Office.

MR. HOOPER: Mr. Allen and then Mr. Coolman.

MR. ALLEN: But I think that role is for audits that they determine, that the Auditor determines to be necessary, not necessarily projects that we want to assign to the County Auditor.

MR. HOOPER: Is Mr. Smith on the phone still?

MR. SMITH: Yes, I'm still here.

MR. HOOPER: Okay. Good. My thought is that the new language be removed. We can go back to what we agreed to in the October meeting, if that's still how we feel. I mean, there's been so many back and forths here, so I just want to make sure that the board and especially the professionals on this board that -- that participate in audits on a regular basis or have a lot of history and experience with audits, that they feel comfortable. But I think we should just stick to where we were, because a first right of refusal and -- it just basically takes -- again, as you said, Ms. Pennant, it speaks to our independence. Mr. Coolman.

MS. LOVE: This is -- this is Allyson, and I am not in support of the new amendment that was recommended by the County Auditor. I am, however, if the language sticks to 1, that it should say independent performance auditor. But I was okay also with the original language. I think it should be independent. The board should have the right to secure an auditor, a performance auditor, as well as the independent external auditor.

MR. SMITH: Yeah, and, Mr. Chair, if I would weigh in with just a couple of quick things when -- when the time is right.

MR. HOOPER: Please weigh in.

MR. SMITH: Okay. Thank you. So think what's important here, and it's easy to get lost in the details, you know, the way that it seems to be drafted here, I think we got into this discussion of what retaining means and kind of went down a road that way previously. I don't think it's important that we retain, but I do think it's important that we can go out and solicit or at least bring other auditors in if we're not getting what we think we should be getting in terms of reporting at our funds level.

So I think that's important. And that just has to do with external audit, you know, that I think what happened was we agreed, okay, you know, we're -- the County had already engaged a firm, and we said, okay, great, we're going to get a separate audit also, and let's see how that goes. I don't want -- I don't want to step away from having that ability to have some role in that process as to how we retain the auditor. I mean, the County would be retaining administratively, of course.

And then when it comes to performance auditing, we just absolutely have to keep that right there to go external. So we can't -- we can't, in my opinion, be in favor of anything that would start to chip away at that if we feel we need that -- that expertise.

MR. HOOPER: Yes, Ms. Wallace.

MS. WALLACE: Right. So the proposed paragraph 1 includes performance and financial; right? And I guess we are -- you're saying that insert independent performance auditing and financial review services. And just paragraph 2 is only the single audit for the whole County. So the financial is included in paragraph 1.

The distinction with paragraph 2 is the single audit of all the County's -- all of the County money, including the separate financials for the surtax funds the way the Enterprise Funds are handled for the airport and the seaport. So that's a separate discussion.

So financial is included in 1, and this body's ability to request financial and performance services, external, right; and 2 is just the County internal audit, which is statutory; right? I just want everybody to be clear that financial and performance are included in 1, and that single audit is something different.

MR. HOOPER: And I would just --

MS. WALLACE: Right?

MR. HOOPER: -- I would ask the members of the board that, again, have the experience, is financial review correct, or should it be financial audit?

MR. SMITH: Yeah, that's not -- that's not how this reads, so it's not -- definitely not clear. And we're kind of -- we keep using the word single audit, which has to do with when federal funds are received, certain procedures that have to be performed. But this is typically undertaken along with the financial audit. So these would be services that

would be performed together. This is totally aside from any performance auditing. And it doesn't seem clear to me, the way that this is drafted, in alignment to what Ms. Wallace is speaking to here.

MS. PENNANT: Yeah, Mr. Chair?

MR. HOOPER: Ms. Pennant.

MS. PENNANT: You know, I always like to go back to the original document. And here it says, again, retain an independent certified public accountant to perform and complete annual audits of all projects funded with transportation surtax and proceeds. So I want to make sure that whoever is hired, that they have access to provide audits on all projects, and not that the County Attorney -- County accountant is creating any restrictions for the auditor that we hire. I want to make sure that whoever that independent person is, they have autonomy to look at whatever is related to cities, the whole gamut.

MR. HOOPER: So why would we change anything? Why wouldn't we just go back to the original language? You want to propose that?

MR. COOLMAN: With the exception --

MS. PENNANT: Of the performance --

MR. COOLMAN: -- of the 180 days.

MR. HOOPER: That has to do with the County's audit; right?

MS. PENNANT: Yeah.

MR. ALLEN: Well, that's just to --

MS. WALLACE: The single -- the single audit is -- that is required by law is what's covered in 2. The other financial audits are covered in 1. I think -- you know, we had a bunch of discussion, the body -- board had several discussions over a couple meetings about single audit and financial statements for single audit, which is just a comprehensive audit that's legally required of the County being covered in 2, and being handled by the external auditor that handles that, that is responsible for that function. And other audits, financial and performance or otherwise, are still -- that ability is still available for this body, but we needed to make a distinction --

MR. ALLEN: Under 1.

MS. WALLACE: -- between -- under 1, right. It's still available to this body under 1, but we distinguished the single audit that is a legal requirement and is subject to a contract

INDEPENDENT TRANSPORTATION SURTAX OVERSIGHT BOARD

DECEMBER 19, 2019

dh/NC

that's for -- and it's for all County funds, not just surtax funds.

MR. ALLEN: Right. The County has to do the overall audit, anyway, and we'll be --

MR. SMITH: It's not --

MR. ALLEN: -- participating in that and have an audit as it relates to the surtax.

MR. SMITH: -- the audit. This says the financial audit. Those are two different things that go on. They -- they go on at the same time. I'm sure they're both required, right, but it doesn't -- that's not how this is -- that's not how this is written. Number 1 says, performance auditing and financial review services. How does that relate to the financial audit? Meaning, if we were displeased with what we got back from the auditor that the County retained as it relates to the surtax fund, that's where I would have the concern, is that can we go and say, look, you guys have an auditor, but we're going to -- we're going to vote and try and retain or put forth an auditor to be retained from the County to focus solely on the surtax fund.

MS. WALLACE: Yes.

MR. ALLEN: Maybe you get there by just adding under financial review services, financial audit and review services.

MS. WALLACE: Okay. Right. Because that's where it is in 1. And so the scope would be determined at the time of the solicitation. And so if you want to include whatever auditing standards or whatever the standards of review would be for that particular vendor or consultant, it would be outlined as part of the solicitation, what that financial review or audit would consist of. So Mr. Allen is proposing financial review or audit services --

MR. ALLEN: Financial audit or -- or --

MR. HOOPER: Review.

MR. ALLEN: -- review services.

MS. WALLACE: Okay.

MS. CASSINI: We actually thought that adding that language gave you more, because an audit --

MR. HOOPER: A performance audit is -- could be a financial audit.

MS. CASSINI: Right. An audit generally follows particular --

MS. WALLACE: Auditing standards.

MS. CASSINI: -- guidelines and --

MS. WALLACE: Right.

MS. CASSINI: -- standards. And it's very prescribed. And so by using the terminology that's in subsection 1 -- what we had heard from you all in these conversations was you want to have the broadest discretion possible. If you want to look at a particular project that didn't get selected as part of the audit, because they're sampling, and if you all wanted to look at an entire program or something discrete or however broad it was or detailed, this gives you that level of authority.

MS. WALLACE: Right.

MS. PENNANT: So -- Alan?

MR. HOOPER: Yes, go ahead.

MS. PENNANT: Sorry. The only change that I would propose is here, where it says annual financial. I would put financial and performance audit. I think --

MS. WALLACE: That is not the performance audit section. 2 is the single audit. So we're focusing on 1. So the single audit for all County funds is 2. The financial audits that we're referring to that would be requested by this board are covered in 1.

MS. PENNANT: Okay. Okay.

UNIDENTIFIED SPEAKER: But we're just --

MR. SMITH: But you realize it doesn't say single audit. It says financial audit; right? That's the proposed language?

MR. ALLEN: The -- the oversight --

MR. SMITH: So that's the -- that's the audit in accordance with governmental accounting standards that the single audit would be part of that engagement, but it's not exactly the same thing. So going back to my example, if we were displeased with the auditor and we wanted a separate auditor, I just want to make sure that we have that authority. So maybe the language up above --

MS. WALLACE: It's -- it's in 1.

MR. HOOPER: So -- okay. So -- so --

MR. SMITH: -- can be reflected in such a way, yeah.

MR. HOOPER: -- Shea, can you -- can you please make a recommendation on how to -- how to language this, please, and maybe we'll do a motion?

MR. SMITH: Yeah. So I think for subsection 1, may retain performance auditing -- performance and financial auditing and review services --

MS. PENNANT: Can I add --

MR. SMITH: -- would cover --

MS. PENNANT: -- independent?

UNIDENTIFIED SPEAKER: (Inaudible.)

MS. PENNANT: Okay.

MR. SMITH: -- that should cover it. And if we want to put, you know, where those sources would come from, you know, external or internal, we could propose that. But I think that that's more -- it's more broad. So I think if -- even if we didn't say, independent, I think that we would be covered there. But the thing is, though, isn't -- doesn't this get away from what we said before about us actually being able to retain? I feel like we have trouble with that word in other places, but here it is proposed.

MS. WALLACE: It says as provided in Section G above, which is the first provision --

MR. SMITH: Okay.

MS. WALLACE: -- that we addressed --

MR. HOOPER: Staffing.

MS. WALLACE: -- today, yes, under staffing.

MR. SMITH: Okay.

MS. WALLACE: Staffing and consultant services --

MR. SMITH: All right. Fair enough.

MS. WALLACE: -- are covered in Section --

MR. SMITH: So that can just refer --

MS. WALLACE: -- G --

MR. SMITH: -- back to that.

MS. WALLACE: -- and that was the subject of our first --

MR. SMITH: Okay.

MS. WALLACE: -- discussion.

MR. HOOPER: Okay. So --

MR. SMITH: All right.

MR. HOOPER: -- so did we write down what Mr. Smith said?

MS. PENNANT: Can you read it back?

MR. HOOPER: Please read it back, and then I'm going to ask a board member to make a motion, if we can do that. At least --

MS. CASSINI: So --

MR. HOOPER: -- for discussion.

MS. CASSINI: -- so the first part is that we did not include the word, independent, in Mr. Smith's recommendation, so it reads as follows. The Oversight Board may retain performance auditing and financial auditing and review services related to transportation surtax projects as provided in Section G above.

MR. HOOPER: Okay. Does that sound good, Shea?

MR. SMITH: Yeah, I'm fine with that. And I'm also okay if we want to put the word, independent, in there. I wouldn't object to that. So that can be up for discussion.

MS. LOVE: I --

MR. SMITH: But, yes, that's fine.

MS. PENNANT: Yes.

MS. CASSINI: Allyson.

MR. HOOPER: Oh, Ms. Love. I'm sorry.

MS. LOVE: I would like the word, independent, to be added there. It certainly doesn't harm it, and it strengthens it.

MR. HOOPER: Okay. I think we're -- I think we're pretty close. If someone can make a motion, we can --

MR. ALLEN: I would make the **motion**.

MS. PENNANT: I'll second.

MR. HOOPER: Okay. Can we do a quick roll?

MS. CASSINI: Dr. Kelley.

DR. KELLEY: Yes.

MS. CASSINI: Mr. Allen.

MR. ALLEN: Yes.

MS. CASSINI: Ms. Pennant.

MS. PENNANT: Yes.

MS. CASSINI: Is --

MR. HOOPER: Yes.

MS. CASSINI: -- Mr. Cavros on the line? I'll come back to you guys at the end. Mr. Cavros? Mr. Smith.

MR. SMITH: Yes.

MR. CAVROS: Yes.

MS. CASSINI: Ms. Love.

MS. LOVE: Yes.

MS. CASSINI: Vice Chair Coolman.

MR. COOLMAN: Yes.

MS. CASSINI: Chair Hooper.

MR. HOOPER: Yes.

VOTE PASSES UNANIMOUSLY.

OTHER BUSINESS

MR. HOOPER: Okay. Do we have any other items to discuss? Okay. I'm very glad that we got through that. I want to thank you guys. I want to -- really, Ms. Wallace and Ms. Cassini and staff and my board members, I think this was important that we did this. I'm so sorry it's so close and involved in the holidays, but thank you. And happy holidays to all of you and your family. All right.

MR. ALLEN: Mr. Chairman?

MR. HOOPER: Yes, sir.

MR. ALLEN: Are you going to attend the meeting, Public Hearing?

MR. HOOPER: You know, let's see what's going to be proposed for voting -- yeah, I -- if I'm here, I will. If I'm here, I will. Let me look at my calendar.

MR. COOLMAN: While you're looking at your calendar, Mr. Mayor, do you have anything to say?

UNIDENTIFIED SPEAKER: (Inaudible.)

MR. COOLMAN: With the -- let's put it this way.

MR. COOLMAN: No, no. I'll make it simple. Based on our recommended changes, are you happy? Happier?

MAYOR STERMER: I'm happier with what this board did today. Do I have concern about what happens when it goes forward? Absolutely. But I would encourage you -- and, Mr. Allen, I appreciate you raising it -- I would -- if it's going to come back before the County Commission in the first week in January, I would strongly request that you request that it be provided to you before that so you can see it.

And whether you attend or not may be based upon whether or not the language that's proposed is sufficient with what you discussed today. I'm not suggesting that it won't be, but I think you need to have the opportunity to review it more than just that morning, and if you're out of town, you can't attend. So I would ask that you do that. But I also would suggest the County Commission views things differently when those that are involved stand before them. So I would suggest that if you are available, be there.

MS. CASSINI: So, as has been the case and will continue to be the case, because of

INDEPENDENT TRANSPORTATION SURTAX OVERSIGHT BOARD

DECEMBER 19, 2019

dh/NC

the transparency and accountability that's required by this particular Oversight Board, you will receive not only the memo that is going to be distributed with all of your recommendations that will also be provided to the Commission, again, as additional material for the Public Hearing, but you will receive all of the copies of the ordinance changes, just as Angela has done all along.

MR. HOOPER: Definitely.

MR. COOLMAN: Is there --

MS. CASSINI: Well in advance.

MR. HOOPER: Go ahead.

MR. COOLMAN: -- is there any reason that this couldn't be delayed two weeks? I'm just asking.

MS. CASSINI: So I'm -- again, I'm going to defer to legal counsel. It has been my recommendation to you, publicly, that the most important thing that we can do is to align our ordinance with the policies and procedures that are happening with respect to municipal prioritization so that the ordinance reflects what is actually happening procedurally. It should have happened a long time ago. Every time -- every week that we delay it is a cause for concern.

MR. HOOPER: Okay. Thank you. And I will be there, but, like I tell board members on other boards I'm on, we should all be there, not just me. Okay? So if your calendar allows you to, please be there. I agree with the Mayor from Weston. He's absolutely right. Our presence matters.

MR. ALLEN: Can we ask for a time certain?

MS. PENNANT: I'll -- I'll be there.

MR. ALLEN: Can we ask for a time certain?

MR. HOOPER: Well, I'm sure staff will help us with that.

MS. WALLACE: We can -- right. We can request.

ADJOURN

MR. HOOPER: Again, thank you very much, everybody. We're going to adjourn the meeting. Happy holidays.

MS. WALLACE: Thank you. Happy holidays, everyone.

INDEPENDENT TRANSPORTATION SURTAX OVERSIGHT BOARD

DECEMBER 19, 2019

dh/NC

MR. HOOPER: And have a great new year.

UNIDENTIFIED SPEAKER: Thanks, everyone. Happy holidays.

MS. PENNANT: Thank you.

(The meeting concluded at 12:52 p.m.)