

**RESOLUTION NO. 20-08-02**

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE LEHIGH ACRES FIRE CONTROL AND RESCUE DISTRICT, LEE COUNTY, FLORIDA, CONCERNING ANNUAL NON-AD VALOREM ASSESSMENTS FOR FY 2020-21 AND PROVIDING ANNUAL DIRECTION CONCERNING THE DISTRICT BUDGET; PROVIDING FOR SCRIVENER'S ERRORS; PROVIDING FOR CONFLICTS: PROVIDING FOR LIBERAL CONSTRUCTION; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, faced with future challenges related to the generation of annual revenue in an amount that is sufficient to meet regulatory service requirements and the budgetary needs of the Lehigh Acres Fire Control and Rescue District ("DISTRICT"), electors within the District on August 18, 2020 approved by referendum an alternative means to fund fire protection, rescue, emergency medical services, administration, governance, associated capital and associated services, facilities and programs<sup>1</sup> and,

**WHEREAS**, this Resolution serves to determine, announce and provide direction, authority, ratification, confirmation, and otherwise promptly facilitate activities necessary and required to further consider, fulfill and reasonably accomplish responsibilities of the District and District Board within a series of imminent and annual statutory governance deadlines.

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<sup>1</sup> Source: Certificate of Canvassing Board, Lee County, signed August 21, 2020, which notices the following ballot question was approved by the voters:

FUNDING LEHIGH ACRES FIRE DISTRICT  
SERVICES, ADMINISTRATION, AND CAPITAL  
WITH NON-AD VALOREM PROPERTY ASSESSMENTS

As an alternative to ad valorem taxes and current assessments, may Lehigh Acres Fire District annually levy non-ad valorem assessments beginning fiscal year 2020/2021 to fund fire protection, rescue, emergency medical services, administration, governance and associated capital not exceeding \$162 per parcel plus \$.93 per \$1,000 of value of improvements thereon, together with identified administrative costs, collection costs, and statutory discounts, with increases limited by growth in Florida personal income over the previous 5 years?

\_\_\_\_\_ Yes  
\_\_\_\_\_ No

**WHEREAS**, the approval of the August 18, 2020 ballot question<sup>2</sup> does not supersede nor supplant the necessity for the Board to conduct further public hearing, and for the Board to continue to listen to and consider all of the available and alternative means to fund District services, facilities and programs; and

**WHEREAS**, the both mailed and published notice, as required by law, have been and will continue to be provided, along with all other required information, in addition to other extraordinary information the District has endeavored to provide to further inform concerning the non-ad valorem assessment funding and collection process, all of which has and continues to be additionally, reasonably, and conveniently available to inform interested persons world-wide at the District's website and the District's offices; and,

**NOW, THEREFORE, BE IT RESOLVED by the Lehigh Acres Fire Control and Rescue District Board of Commissioners, that:**

**SECTION 1. INCORPORATION OF RECITALS; FINDINGS**

The recitals and determinations set forth above and herein have been ascertained, determined and declared by the Board and form a part of this Resolution.

**SECTION 2. AUTHORITY**

The Board of Commissioners is authorized to adopt this Resolution by Florida law.

**SECTION 3. DIRECTION AND AUTHORIZATION**

The Board hereby announces, declares, directs and authorizes as follows:

1. The required notices for both the simplified fire and demand-based assessment methods announcing the time, date and place for a public hearing on September 14, 2020 have been published on or before August 24, 2020; additionally,

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<sup>2</sup> Id.

the required individually mailed notice to affected property owners concerning the simplified method announcing the time, date and place for a public hearing on September 14, 2020 was also mailed on or before August 24, 2020. Such published and mailed notices, the content thereof, and the timely publication and mailing thereof is hereby ratified and confirmed.

2. In recognition of the need for continual planning, short-time frames to meet statutory deadlines, the possibility of exigent circumstances, and the potential need for nimble interim Board direction, decision-making, ratification or confirmation of actions delegated or otherwise, a virtual meeting of the Board for September 8, 2020 at 6:00 P.M., is scheduled, and notice thereof is directed. This meeting may not be necessary, and may be canceled by notice posted on the District's website.

3. The meeting of the District Board and public hearing announced and noticed for September 14, 2020 at 6:00 P.M. at District Fire Station 104, located at 3102 16th Street SW, Lehigh Acres, Florida, is ratified and confirmed.

4. By necessity, direction on whether to use the simplified method of assessment or the demand based method of assessment needs to be announced for purposes of statutorily required certification of the annual non-ad valorem assessment roll to the Lee County Tax Collector on or before September 15, 2020. As necessarily directed earlier this Spring, District management, District staff, counsel and advisers have developed dual or alternative approaches so that after either the August 18, 2020 referendum or the foregoing September 14, 2020 public hearing, the Board can timely direct the certification of one assessment roll or another to the Lee County Tax Collector. Additionally, this timing circumstance to finalize the District funding source

and budget for the upcoming fiscal year, has and continues to necessitate additional and extraordinary preparedness, effectively requiring the dual approach to the annual non-ad valorem assessment roll development and budgeting process. This continues to be no easy process. The District Board expresses its sincere gratitude to the Lehigh Acres community and property owners for good-natured patience and cooperation, as well as to all persons who made and continue to make such options available for Board consideration.

5. On September 14, 2020, after the public hearing, the Board recognizes the likely need to close the scheduled public hearing, make a fundamental decision between the two, now elector-authorized non-ad valorem assessment approaches, and certify one or the other to the Lee County Tax Collector, or take other action. At that time, District staff should continue to be prepared with two alternative proposed budgets using either of the two non-ad valorem assessment methods.

6. On or before August 29, 2020 the published notice of a District Board meeting, including a public hearing, to consider the annual budget on September 29, 2020 for the upcoming fiscal year shall be published. Such published notice shall fairly notify well in advance that the District Board will hear the public and necessarily again consider the alternative non-ad valorem assessment methods available to the District in considering the budget for the upcoming fiscal year.

7. In the activities between now and early November, District management, staff, counsel, experts and advisors are also necessarily directed and authorized to be prepared to undertake and advance as much as reasonably possible the preparations to address community-oriented exemptions associated with non-ad valorem assessments

in substantially the manner addressed in Board Resolution No. 20-06-02. The Board recognizes that certainty in this circumstance associated with community-oriented exemptions concerning non-ad valorem assessments may not entirely be clear until the end of September or later. Many of the community-oriented exemptions may be readily ascertainable in September, but those associated with the so called 'adjoining lot' community-oriented exemption will necessarily take more time and property owner interaction to verify and determine over this Fall and Winter. To the extent practicable, the District Board will give priority to accomplishing this process on an expedited basis, but this may take several months to initially complete. The Board also respectfully asks affected property owners to be good-natured and patient, and recognize Florida law allows for the District to cause refunds for 're-calculated' tax notice payments if a property owner pays all taxes and non-ad valorem assessments in November to obtain the statutory discount for early payment, and then gets a later refund for a community-oriented exemption or assessment correction.

8. In the event a court of competent jurisdiction determines any exemption or reduction by the DISTRICT is improper or otherwise adversely affects the validity of the non-ad valorem assessment imposed for a fiscal year, the sole and exclusive remedy shall be the imposition of a non-ad valorem assessment upon each affected tax parcel in the amount of the assessment that would have been otherwise imposed save for such reduction or exemption afforded to such tax parcel by the DISTRICT.

9. Any shortfall in the expected non-ad valorem assessment proceeds due to any reduction or exemption from payment of the annual assessments required by law or authorized by the DISTRICT shall be supplemented by any legally available funds, or

combination of such funds, and shall not be paid for by proceeds or funds derived from the non-ad valorem assessments in any given year. Approval and adoption of this Resolution shall ratify and confirm all actions by all DISTRICT representatives, employees, and agents, including the Fire Chief, such person's designees, staff, general legal counsel, special legal counsel and third party vendors, to take or have taken all of the necessary actions concerning the actions or directives of the Board addressed or provided for herein, and as may further be directed and approved by the Chief, to implement the direction and authorization previously, and as provided for herein.

**SECTION 4. SCRIVENER'S ERRORS**

The Board intends that all sections of this Resolution which contain typographical errors which do not affect the intent of this Resolution can be administratively corrected by the authorization of the Fire Chief, or such person's designee, without the requirement of having a corrected Resolution adopted by the Board.

**SECTION 5. CONFLICT**

Any provision of any DISTRICT Resolution which is in conflict with the provisions of this Resolution is repealed prospectively to the extent of such conflict.

**SECTION 6. LIBERAL CONSTRUCTION**

The terms and provisions of this Resolution shall be liberally construed to affect the purpose for which it is adopted.

**SECTION 7. SEVERABILITY.**

If any portion of this Resolution is for any reason held or declared to be unconstitutional, invalid or void, such holding shall not affect the remaining portions of this Resolution. If this Resolution shall be held to be inapplicable to any person or circumstances, such holding shall not affect the applicability of this Resolution to any other person or circumstances.

**SECTION 8. EFFECTIVE DATE.**

This Resolution shall take effect upon the adoption of this Resolution by the Board of Commissioners of the Lehigh Acres Fire Control and Rescue District.

The foregoing Resolution was offered by Commissioner Cunningham, who moved its adoption. The motion was seconded by Commissioner Sherman, and being put to a vote, the vote was as follows:

Commissioner Catherine Kruse  
Commissioner Debra Cunningham  
Commissioner Linda Carter  
Commissioner Robert Bennett  
Commissioner Lucia Sherman

AYE             
AYE             
NOT ABLE TO VOTE  
AYE             
AYE JK

APPROVED  
Catherine Kruse , 18:05:52, 26/08/2020

DULY PASSED AND ADOPTED on the 25th day of August, 2020.


(Seal)

**LEHIGH ACRES FIRE CONTROL  
AND RESCUE DISTRICT**

ATTEST:

APPROVED  
Catherine Kruse , 18:05:47, 26/08/2020

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Catherine Kruse, Chair

  
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Lucia Sherman, Treasurer/Secretary