

**RESOLUTION NO. 20-06-02**

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE LEHIGH ACRES FIRE CONTROL AND RESCUE DISTRICT, LEE COUNTY, FLORIDA, CONCERNING NON-AD VALOREM ASSESSMENTS AND ANNOUNCING POLICY DIRECTION RELATED TO THE CONTINUATION OR TERMINATION OF THE COMMUNITY-ORIENTED EXEMPTIONS GRANTED BY THE DISTRICT IN THE PAST AND ALSO CONCERNING A NEW ADJOINING RESIDENTIAL LOT EXEMPTION; PROVIDING FOR SCRIVENER'S ERRORS; PROVIDING FOR CONFLICTS; PROVIDING FOR LIBERAL CONSTRUCTION; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Board of Commissioners of the Lehigh Acres Fire Control and Rescue District ("District") recognizes that the District faces 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 District; and,

**WHEREAS**, Resolution 20-04-02 explains that: the District's available revenues going forward are not going to be annually adequate; reserves are not sufficient to be used as a means to maintain any comprehensive status quo of the District's level of fire services and emergency rescue services, including ambulance services; and the District is prudent and duty bound to continue to inform and seek an alternative means to necessarily increase revenue immediately and over the long term; and,

**WHEREAS**, the Board of Commissioners has caused a ballot question on the approval of a "simplified fire" assessment methodology as an alternative to the current "demand-based" assessment methodology that will be presented to the electors on August 18, 2020, on the primary election ballot which reads as follows:

**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 \$0.93 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

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

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

1. 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.

2. The determinations and findings contained in Resolution 20-04-02 addressing “Short and Long Term Financial Sustainability” are confirmed and incorporated herein.

3. The District will continue to suffer from a slow and cancerous reduction in funding if the August 18, 2020 ballot question to approve the simplified fire assessment methodology does not pass.

4. The current demand-based assessment methodology simply cannot continue to support the community-oriented assessment exemptions the District has approved in the past because the District’s annual costs that are required to provide the District’s services at the current level continue to go up faster than the District’s annual revenue increases.

5. On the other hand, the proposed simplified fire assessment methodology will provide additional District revenue which, among other things, can support and allow the continuation of the community-oriented assessment exemptions the District has approved in the past.

6. If the ballot question passes on August 18, 2020, so that the new simplified fire assessment is approved, the District will likely be able to afford to continue the current community-oriented assessment exemptions AND the District will be able to fund the building, equipping and staffing of 4 to 6 much needed additional fire stations over the next 10 to 12 years so that the District's fire and rescue services will improve and the District's response times will go down.

7. If the primary ballot question fails on August 18, 2020, the District will likely not have the financial ability to continue to grant the community-oriented exemptions from the District's assessments that have been granted in the past and the District may not be able to even fund the completion of Station 106 or continue to keep the District's certificate of need for ambulance services that has been granted by Lee County.

## **SECTION 2. AUTHORITY**

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

## **SECTION 3. DIRECTIONS AND APPROVAL**

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

1. **If the August 18, 2020 primary ballot question passes so that the simplified file assessment methodology is approved**, the Board hereby announces in advance and adopts the following as policy and direction:

(a) Beginning fiscal year 2020/2021, the current community-oriented exemptions from the District's assessments will continue to be granted so that no non-ad valorem assessments to fund fire protection, rescue, emergency medical services, administration and governance and associated capital will be imposed upon the following:

1) Buildings or Tax Parcels assigned a NAL Real Property Exemption Code of 09 that are wholly exempt from ad valorem taxation under Florida law pursuant to either an institutional, charitable, religious, scientific, or literary exemption granted by the Property Appraiser in accordance with Section 196.196, Florida Statutes; and

2) Buildings or Tax Parcels assigned a NAL Real Property Exemption Code of 05 that are wholly exempt from ad valorem taxation under Florida law pursuant to an exemption for certain permanently and totally disabled veterans and surviving spouses of veterans granted by the Property Appraiser in accordance with Section 196.081, Florida Statutes; and

3) Buildings or Tax Parcels assigned a NAL Real Property Exemption Code of 05 that are wholly exempt from ad valorem taxation under Florida law pursuant to an exemption for certain surviving spouses of first responders who died in the line of duty granted by the Property Appraiser in accordance with Section 196.081, Florida Statutes; and

4) Buildings or Tax Parcels assigned a NAL Real Property Exemption Code of 06 that are wholly exempt from ad valorem taxation under Florida law pursuant to an exemption for certain disabled veterans confined to wheelchairs granted by the Property Appraiser in accordance with Section 196.091, Florida Statutes; and

5) Building or Tax Parcels assigned a NAL Real Property Exemption Code of 08 that are wholly exempt from ad valorem taxation under Florida law pursuant to an exemption for certain totally and permanently disabled persons granted by the Property Appraiser in accordance with Section 196.081, Florida Statutes; and

6) Building or Tax Parcels assigned a NAL Real Property Exemption Code of 38 that are wholly exempt from ad valorem taxation under Florida law pursuant to an exemption for certain deployed service members granted by the Property Appraiser in accordance with Section 196.173, Florida Statutes; and

7) Building or Tax Parcels assigned a NAL Real Property Exemption Code of 13 that are wholly exempt from ad valorem taxation under Florida law pursuant to an exemption for certain property used by nonprofit homes for the aged granted by the Property Appraiser in accordance with Section 196.1975, Florida Statutes.

2. **If the August 18, 2020 primary ballot question passes so that the simplified fire assessment methodology is approved**, the Board hereby announces in advance and adopts the following as policy and direction:

(a) Beginning fiscal year 2020/2021, physically adjoining and contiguous residential tax parcels, where record title is held in the same manner by the same person(s), which are improved with a single-family house, either (a) with the house resting on up to four (4) physically adjoining and contiguous and previously platted subdivision lots together not exceeding in the aggregate of approximately one (1) acre, or (b) with the house resting on one (1) or more, but not more than a total of four (4) physically adjoining and contiguous and previously platted subdivision lots together not exceeding in the aggregate of approximately one (1) acre (both of which are for purposes of this Resolution being defined and considered as a form of “curtilage”), may, upon petition filed by the record owner(s) prior to February 1 each fiscal year with the Fire Chief or such person’s designee (which may include a special master), receive a partial exemption and adjustment to the annual non-ad valorem assessment using this curtilage definition so that the physically adjoining and contiguous platted lots are exempt from multiple single parcel rate assessments and instead will be charged a single annual parcel rate, plus the annual charge for all associated improvement value on such lots and all uniform collection fees and costs. This is an equitable determination available only for so long as the adjoining lots are owned and record title is held by the same person(s) in the same manner and used in association with that single house. This exemption may sometimes be referred to as the “adjoining residential lots exemption” or the “modified curtilage exemption.”

3. 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 except for such reduction or exemption afforded to such tax parcel by the District.

4. 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.

5. **If the August 18, 2020 primary ballot question fails so that the District cannot use the simplified fire assessment methodology**, the Board hereby announces in advance that the community-oriented exemptions granted by the District in previous years cannot feasibly continue and hereby adopts and informs of the following policy and direction that all community-oriented exemptions will not be able to be continued to be funded for the upcoming fiscal year 2020/2021, under the current demand based assessment methodology due to lack of overall District funding availability.

6. **If the August 18, 2020 primary ballot question fails so that the District cannot use the simplified fire assessment methodology**, the Board hereby adopts and announces in advance the following policy and direction that the adjoining residential lot exemption referred to above in Section 2, cannot feasibly be granted by the District for the upcoming fiscal year 2020/2021, under the current demand based assessment methodology due to lack of overall District funding availability.

7. Upon approval and adoption of this Resolution the Board directs and authorizes the appropriate 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 all of the necessary actions concerning the policy and directives provided for herein, and as may be further directed and approved by the Chief, to actively pursue and support the education and informing of District residents, parcel owners and others on the results of the approval and the implementation of the District's proposed simplified fire assessment methodology; but, to also be prepared to move forward with diminished funding and a lesser level of service if the August 18, 2020 primary ballot question does not pass so that the District cannot use the simplified fire assessment methodology.

#### **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 \_\_\_\_\_, who moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_, and being put to a vote, the vote was as follows:

Commissioner Catherine (Cathy) Kruse	_____
Commissioner Debra Cunningham	_____
Commissioner Linda Carter	_____
Commissioner Robert Bennett	_____
Commissioner Lucia Sherman	_____

DULY PASSED AND ADOPTED on the \_\_\_\_ day of June, 2020.

(Seal)

**LEHIGH ACRES FIRE CONTROL  
AND RESCUE DISTRICT**

ATTEST:

\_\_\_\_\_  
Catherine (Cathy) Kruse, Chair

\_\_\_\_\_  
Lucia Sherman, Treasurer/Secretary