

**Nassau County Board of County Commissioners
Special Session, February 7, 2022, 5:00 p.m.
Commission Chambers, 96135 Nassau Place, Yulee, Florida**

Call to Order, Invocation, and Pledge of Allegiance to the American Flag

County Commissioners:

Present: Chairman Aaron C. Bell, Commissioners Thomas R. Ford, John F. Martin, Aaron C. Bell, Jeff Gray, and Klynt A. Farmer.

Other Officials Present:

Michael S. Mullin, County Attorney; Denise May, Assistant County Attorney; Taco Pope, County Manager; and Marshall Eyerman, Assistant County Manager.

Staff Present: Heather Nazworth and Melissa Lucey, Deputy Clerks.

Official Agenda Summary:

AUDIENCE INPUT:

SS220207 - 5:03:26 Provide input on (Tab A) Non-Agenda Items and (Tab B) Agenda Items.

Public input: Joyce Jefferson came forward in support of the American Beach Water and Sewer Advisory Board's recommendation to use the American Rescue Plan Act (ARPA) and other available federal infrastructure funding to fully fund the American Beach water and sewer projects by further eliminating the annual or prepayment assessments to historic American Beach property owners.

Pamela McCorkle-Buncum came forward to voice concerns regarding the American Beach water and sewer projects. She inquired if each Commissioner had independently researched before approving the request at January 24, 2022, regular session meeting to reject all bids received pertaining to American Rescue Plan Administration, Bid No. NC21-045. She advised that she spoke with a representative at the U.S. Department of Treasury Office of Coronavirus, State and Local Fiscal Recovery Funds Divisions and received countered information to the explanation provided by staff

during that meeting. Ms. McCorkle-Buncum indicated that if the Commissioners approve tonight's agenda, it will disqualify the American Beach water and sewer projects under the rules and definition of sub-planning of federal funds. She inquired why the American Beach special district was different from all other dependent special districts and requested clarification on why none of the ARPA funds have been allocated to projects that meet the U.S. Department of Treasury guidelines.

Berta Arias came forward advising that the American Beach property owners have concerns regarding Tabs C and D, which could disqualify the American Beach community for any other federal funds.

SS220207 - 5:14:31

Motion: Adjourn as the Board of County Commissioners and convene as the American Beach Water and Sewer District.

Maker: Commissioner Ford

Second: Commissioner Farmer

Action: Aye: Commissioners Ford, Martin, Bell, Gray, and Farmer

SS220207 - 5:14:49 (Tab C) Approve and authorize the Chairman to sign Amendment No. 1 to the State Revolving loan agreements, WW45055 and WW450510, with the Florida Department of Environmental Protection (FDEP) for the American Beach Water and Sewer project.

Discussion: Mr. Eyerman responded to the Board's inquiry regarding Ms. McCorkle-Buncum's concerns. He explained that Tab C relates to existing State Revolving loan agreements. Mr. Pope further explained that there is a request for the Board to consider pledging \$1.85 million of all legally non-ad-valorem funds to cover the funding gap, which would eliminate the need for assessments. Mr. Mullin added that Tab C addresses amendments to the existing State Revolving loan agreement to defer completion of the design activities. He stated that the amendments would not prevent further federal funding; however, there are restrictions on American Rescue Plan Act (ARPA) funds usage. Mr. Mullin stated it is the Board's discretion to use ARPA funds for the water and sewer project.

Ms. May stated that Tab D is a Legislative Appropriation Grant and would be time-sensitive. She stated that the Board has a legislative priority request for \$1.8 million. Mr. Eyerman clarified both Tabs C and D are time-sensitive.

Public input: Dr. Eugene Emory, a member of the American Beach Water and Sewer Advisory Board, came forward and inquired if any of the Commissioners felt that Ms. McCorkle-Buncum's comments were incorrect. Mr. Mullin responded that using the ARPA funds on the American Beach water and sewer project has been a consistent recommendation from the American Beach Water and Sewer Advisory Board; however, the County Commissioners would make that decision and not the County staff.

Beverly Davis, a resident of American Beach, came forward and requested clarification on the funding for the State Revolving loan agreements. Mr. Pope responded that the overall total cost is roughly around 11 million dollars; however, with the state revolving fund loans providing a forgiveness rate and appropriations from the State Legislator, it would leave the total funding gap of 1.8 million dollars. He clarified that the intent at tonight's meeting was to pledge 1.8 million dollars to cover that funding gap to eliminate the future assessments. Mr. Eyerman noted that the County would be offering the hardship program to cover any annual assessment. He specified that to get the \$7 to \$8 million forgiven, the County is required to have the assessments in place today. He noted that the American Beach property owners would be refunded for individual paid assessments once the construction and SRF loan agreements are fulfilled. He advised that the County is still awaiting the decision regarding the Water Infrastructure Improvements for the Nations (WIIN) grant, which would potentially reduce future assessments to where they are today. He indicated that County staff would be reviewing the SRF loan agreements and calculations regarding refunding American Beach property owners who paid the full prepayment of the assessment.

Ms. McCorkle-Buncum came forward and raised her concerns regarding the phrase "pledging" in Tab E, consideration of a Resolution pledging \$1.85 million of all legally available non-ad-valorem funds to eliminate the American Beach Water and Sewer District Assessment. She noted that pledging is a promise; however, paying would be a guarantee. She inserted that the American Beach property

owners would not be assessed if ARPA funds were used. Further discussion ensued regarding the repayment of the assessments.

Commissioner Farmer inquired if the word "pledging" in the proposed Resolution could be changed to "paying." Mr. Mullin recommended changing the language to "pledge to commit" \$1.85 million of all legally available non-ad-valorem funds.

Public input: Felicia Wimbish came forward and recommended allocating the American Beach SRF loan agreement to other projects within the County and using the ARPA funds to cover the cost of the American Beach water and sewer projects. Mr. Eyerman explained that if the ARPA funds were used on the American Beach water and sewer projects, the County would be forfeiting the pledged funds from the State and would not be eligible for any other projects.

Matt Morrell came forward and inquired if a portion of the ARPA funds could be used towards the \$1.85 million funding gap. Ms. May clarified that it would be considered a debt service, which is prohibited by ARPA guidelines.

Tony Brown appeared via "Zoom," a member of the American Beach Water and Sewer Advisory Board, and spoke in favor of approval of Tabs C, D, and E. He commended the County staff for finding a solution that would minimize the cost to the American Beach property owners for the special assessment. He voiced his concerns regarding the legally available non-ad-valorem funds to cover the funding gap. He requested the Board consider refunding the prepaid assessment paid by property owners. Ms. May addressed the language of the "legally available non-ad-valorem funds," noting that tax funds are prohibited from paying the SRF loan. She specified that the non-ad-valorem funds could include the one percent surtax and other enterprise funds.

Vernell Britton appeared via "Zoom" and stated that ARPA funds were designed for water and sewer projects. She disagrees with the County's rationale for holding assessments for several years and not using the ARPA funds for the American Beach water and sewer projects.

Dr. Emory came forward and inquired why American Beach is so unique with paying annual assessments for infrastructure from other districts. Mr. Mullin provided a brief overview

of the process. He added that the SRF loan provides a forgiveness rate of 83 percent, with the requirement of creating a separate district. Mr. Mullin responded to an inquiry regarding the interest rate, noting that the efforts by the County and Florida Government Utility Authority (FGUA) achieved the interest rate at zero percent.

Joyce Jefferson came forward and inquired if the Board intends to fully fund the septic and water sewer conversion, eliminate additional assessments to the American Beach property owners, and use any ARPA funding on American Beach. Commissioner Martin reiterated that after the two to three-year period, the American Beach property owners would be reimbursed for their payments and eliminate the annual assessments.

Ms. McCorkle-Buncum came forward and stated that ARPA funding was provided to the Town of Callahan, the City of Fernandina Beach, and the Town of Hilliard. Furthermore, she noted that the American Beach property owners did agree to the annual assessments on misinformation. She pointed out that one of the American Beach Water and Sewer Advisory Board members had compared this SRF loan to predatory lending.

Erving Gilyard, a member of the American Beach Water and Sewer Advisory Board, came forward, stating that it is okay not to agree but should be agreed upon is getting water and sewer to American Beach at minimal or no cost to the property owners. He inquired if future Commissioners could challenge the proposed change to the Resolution. Mr. Mullin advised that it would require a cause of action; however, the community would have recourse.

Rick Cannonton came forward and expressed that it is the Board of County Commissioners' fiscal responsibility to appropriate ARPA funds to historic American Beach for water and sewer and eliminate the burden of the annual assessments to the property owners. He questioned if the reimbursement for the assessment fees would include interest. Ms. May advised that there is a requirement to make bi-annual payments on the SRF loans; these funds do not set in an interest-bearing account.

Mr. Brown appeared via "Zoom" and urged the Commissioners to approve Tab E. He indicated that the infrastructure for

water and sewer would be a monumental moment for American Beach to include the reimbursement. He pointed out that Tabs C and D relate to a forgivable loan, and the only risk is not completing construction. He noted that he is a member of the American Beach Property Owner Association Board and would recommend that the board provide a list of projects that would be eligible for ARPA funds to the Board of County Commissioners.

Ms. McCorkle-Buncum came forward to inquire if American Beach would remain eligible for federal funds and to confirm that the loans were approved on or before February 28, 2022. Ms. May advised that there is currently a loan in place since June 2021 for the design portion of the water and sewer project. The second portion of the loan is for the construction that will come before this Board on June 28, 2022. She explained that ARPA funds could not be used for debt payment but is available in other areas and projects. She stated that the American Beach water and sewer projects have been in the works since 2016, and funds have already been expended.

Beverly McKenzie appeared via "Zoom" and inquired if funds were available in the County's budget to cover the \$1.85 million funding gap. Mr. Eyerman advised that the County would have to review the future budget to identify the funding source.

Motion: Approve Tab C as stated above.
Maker: Commissioner Ford
Second: Commissioner Farmer
Action: Aye: Commissioners Ford, Martin, Bell, Gray, and Farmer

SS220207 - 7:02:17 (Tab D) Approve and authorize the Chairman to sign the Florida Department of Environmental Protection (FDEP) Standard Grant Agreement No. LPA0237, in the amount of \$600,000.00 for the American Beach Water and Sewer District.

Motion: Approve Tab D as stated above.
Maker: Commissioner Martin
Second: Commissioner
Action: Aye: Commissioners Ford, Martin, Bell, Gray, and Farmer Gray

SS220207 - 7:02:44

Motion: Adjourn as the American Beach Water and Sewer District and reconvene as the Board of County Commissioners.

Maker: Commissioner Martin

Second: Commissioner Farmer

Action: Aye: Commissioners Ford, Martin, Bell, Gray, and Farmer

NEW BUSINESS:

SS220207 - 7:03:00 (Tab E) Approve and authorize the Chairman to sign a Resolution pledging \$1,850,000.00 of all legally available non-ad-valorem funds to eliminate the American Beach Water and Sewer District Assessment.

Discussion: Mr. Mullin requested that the motion include changing the proposed language from "pledging" to "pledge to commit."

Motion: Approve Tab C as stated above and authorize the Chairman to sign Resolution 2022-10, including the amended language "pledge to commit."

Maker: Commissioner Farmer

Second: Commissioner Ford

Action: Aye: Commissioners Ford, Martin, Bell, Gray, and Farmer

DISCUSSION ITEMS:

SS220207 - 7:08:29 All Commissioners sent condolences to Dr. Kathy Burns.

There being no further business, the regular session of the Nassau County Board of County Commissioners adjourned at 7:10 p.m.

Approved on: September 26, 2022

Jeff Gray, Chairman

Attest:

John A. Crawford, Ex-Officio Clerk

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