



AGENDA REPORT
July 23, 2019

**Resolution for Finding of Critical Needs, Law Enforcement Municipal
Service Taxing Unit**

SUBJECT:

Resolution for Finding of Critical Needs, Law Enforcement Municipal Service Taxing Unit (MSTU)

FISCAL IMPACT:

The Proposed FY 2019-2020 Law Enforcement MSTU millage rate of 1.1142 will generate \$20,466,289, an increase of \$1,765,605.

DEPT/OFFICE:

Budget

REQUESTED ACTION:

It is requested that the Board adopt the Resolution, providing for the ultimate facts supporting an increase in the Law Enforcement MSTU Ad Valorem Tax over the cap set forth in Section 2.9.3.1 of the Charter.

SUMMARY EXPLANATION and BACKGROUND:

As a result of the Charter limitation, the County has been unable to fund certain services and programs for past years, thereby elevating these services and programs to a critical need status. The resolution presents facts for Board consideration that give rise to critical needs in the Brevard County Sheriff's Office for the purposes of section 2.9.3.1(c) of the Brevard County Charter; for Law Enforcement MSTU services, programs and improvements in the upcoming fiscal year.

CLERK TO THE BOARD INSTRUCTIONS:

Maintain for Records Retention

ATTACHMENTS:

Description

- **Law Enforcement MSTU Critical Need Resolution**



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July 24, 2019

M E M O R A N D U M

TO: Jill Hayes, Budget Office Director

RE: Item J.5., Resolution for Finding of Critical Needs, Law Enforcement Municipal Service Taxing Unit (MSTU)

The Board of County Commissioners, in regular session on July 23, 2019, adopted Resolution No. 19-119, providing for the ultimate facts supporting an increase in the Law Enforcement MSTU Ad Valorem Tax over the cap set forth in Section 2.9.3.1 of the Brevard County Charter; and granted permission to the County Attorney's Office to correct a scrivener's error in the Resolution. Enclosed is a certified copy of the Resolution.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

Encl. (1)

cc: Sheriff Ivey
County Manager
County Attorney

RESOLUTION NO. 2019- 119

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA; PROVIDING FOR ULTIMATE FACTS SUPPORTING AN INCREASE IN THE LAW ENFORCEMENT MSTU AD VALOREM TAX RATE AND LAW ENFORCEMENT MSTU AD VALOREM TAX REVENUES OVER THE CAP SET FORTH IN SECTION 2.9.3.1(a) and (b) OF THE BREVARD COUNTY HOME RULE CHARTER; PROVIDING FOR THE FINDING OF CRITICAL NEED REQUIRED BY SECTION 2.9.3.1(c) OF THE CHARTER

WHEREAS, Brevard County is the tenth most populous state in Florida; and

WHEREAS, Brevard County is the only county in the State of Florida that is subject to a charter cap in section 2.9.3.1 (a) and (b) of the Brevard County Home Rule Charter enacted under the authority of a special act required a referendum on following ballot language pertaining to the proposed charter cap:

BREVARD COUNTY

Cap on Annual Increases in County Ad Valorem Tax Revenues

Shall the County Charter be amended to limit increases from the previous year in ad valorem tax revenues from tax rates imposed by the Board of County Commissioners, to three per cent or the increase in cost of living index, whichever is less; providing exceptions for voter approved taxes, or when a supermajority of the Board finds that an emergency or critical need exists; excluding certain revenue changes from the computation of revenue increases?

YES

NO

WHEREAS, the charter cap was passed in the 2008 election; and

WHEREAS, in any fiscal year thereafter, absent a supermajority vote of the County Commission finding of an emergency or critical needs, the Brevard County Commission cannot increase ad valorem tax revenues over the prior year's ad valorem tax revenues for the general fund, for any MSTU or for any dependent special district by any more than the lower of the percentage increase in the Consumer Price Index or 3%; and

WHEREAS, since the November, 2008 effective date of the charter cap, the average increase in the CPI has exceeded 3% one time and over the ten year period through 2018 has averaged 1.55%; and

WHEREAS, every other County in the State of Florida is statutorily authorized to levy a “maximum millage” that “is a rolled-back rate based on the amount of taxes which would have been levied in the prior year if the maximum millage rate had been applied, adjusted for change in per capita Florida personal income, unless a higher rate was adopted, in which case the maximum is the adopted rate;” and

WHEREAS, every other County in the State of Florida also has the statutory option of adopting a higher rate in the following manner:

“1. A rate of not more than 110 percent of the rolled-back rate based on the previous year’s maximum millage rate, adjusted for change in per capita Florida personal income, may be adopted if approved by a two-thirds vote of the membership of the governing body of the county, municipality, or independent district; or

2. A rate in excess of 110 percent may be adopted if approved by a unanimous vote of the membership of the governing body of the county, municipality, or independent district or by a three-fourths vote of the membership of the governing body if the governing body has nine or more members, or if the rate is approved by a referendum”; and

WHEREAS, as a result of the Charter limitation, the County has been unable to fund certain services and programs for past years thereby elevating these services and programs to a critical need status; and

WHEREAS, Article 2.9.3.1(c) permits the Board of County Commissioners to impose an ad valorem tax for county, municipal or district purposes at a rate which raise revenues in excess of the revenue cap limitations if a supermajority of the Board concurs in a finding that such an excess is necessary because of emergency or critical need; and

WHEREAS, Article 2.9.3.1 (c) requires the finding of emergency or critical need to set forth the ultimate facts upon which it is based; and

WHEREAS, the following are deemed the ultimate facts justifying a finding of critical need that, upon a finding to that effect by a supermajority of the Board of County Commissioners, warranting the levy of a Law Enforcement MSTU millage rate that will result in the collection of Law Enforcement MSTU ad valorem tax revenues projected to exceed the cap the ad valorem tax rate and ad valorem revenues provided for in Article 2.9.3.1 (a):

Sheriff's Office Critical Needs

1. The recitals set forth above are true, correct and incorporated herein.
2. As sourced by the US Census and University of Florida Bureau of Economic and Business Research, Brevard County has an (2018) estimated population of 583,369 and projects an increase of 44,183 by 2025. Specifically, as sourced by The Viera Company, Viera is projecting a growth of 7,410 residents during the same time period.
3. As sourced by the US Census and Florida Demographics, Brevard County is ranked 10th of the 67 counties by population.

4. As sourced by the State of Florida Office of Economic & Demographic Research, as of the most recent report, 09/30/2016, Brevard County ranks 59th out of 66 counties in per capita Public safety expenditures (Law Enforcement, Corrections, Fire Rescue and Emergency Medical Services), and 61st out of 66 counties in per capita Law Enforcement expenditures. (Miami Dade is not included)

5. Since January 2016, 226 sworn positions within the Sheriff's Office have been vacated, 123 or 54.4% have left due to retirement or to seek employment with other agencies with more competitive salaries. The vacancies have been filled with new employees with very limited experience.

6. The starting salary for a Sheriff's Office deputy sheriff currently ranks 5th out of the 14 local Law Enforcement Agencies in Brevard County. It ranks 6th out of the 8 major law enforcement agencies in the East Central Florida area. The lower and non-competitive starting pay has created significant challenges in the recruitment and retention of highly qualified candidates.

7. The turnover rate results in an increase in the cost to replace staffing because of the local competition in the current workplace for law enforcement positions are in such high demand. Each time a sworn position is vacant, an investment of \$9,642 is made to fill, train and prepare the candidate to perform their sworn duties.

8. The Sheriff's Office has not requested any increase to overtime funding. Yet, as a direct result of the vacancies associated with the separations, agency personnel are required to work beyond their normal schedules.

9. The Sheriff's Office high liability training budget is funded from the surcharge on traffic citations; however, this source of funding has been significantly reduced over the past several years resulting in budgetary impacts on the fulfillment of the required training.

10. Due to budgetary constraints, the Sheriff's Office has been forced to reduce the number of vehicle replacements. Based upon the current replacement model, the agency currently has a deficit of 280 replacement vehicles of the 850 vehicle fleet. As the BCSO utilizes a fleet of high mileage and less reliable vehicles, a significant increase in associated fleet maintenance and repair costs has been experienced. The fiscal impact of a fully equipped marked patrol car is \$58,000.

11. The Sheriff's Office utilizes less-lethal equipment commonly known as Tasers to minimize the risk of casualties and injuries to both citizens and deputies as much as possible. There are currently 586 Tasers in operation, of which 75% are nine years of age or older. All of the Tasers are out of the 5-year warranty and replacement batteries and cartridges have been discontinued. The annual recurring fiscal impact to replace is \$412,544.

12. The Sheriff's Office utilizes life-saving equipment commonly known as an AED (Automated External Defibrillator). There are currently 588 AEDs in operation, of which 90% are six years of age or older. All the AED's are out of the 5-year warranty. The annual recurring fiscal impact to upgrade/operate \$32,846.

13. The Brevard County Comprehensive Plan requires 2.0 deputies per 1,000 residents. Currently, there is a 60 deputy deficit of compliance with the Board's Comprehensive Plan design. Based on FY 2020 projected population estimates, the deficit will grow to 80 deputies. The last Board authorized patrol deputy increase was in FY 2004, which was 32 deputies funded by a Federal COP grant.

14. The Sheriff's Office calls for service have increased from 411,246 to 476,749 between 2014 and 2018. This is a significant (15.93%) increase in service requests over the past 4 years.

15. With the opioid epidemic, the Sheriff's Office has issued Narcan to all deputies and the County Jail receiving staff. Narcan (Naloxone HCI) nasal spray is an emergency treatment to counteract the life-threatening effects of an opioid overdose. The total annual recurring financial impact is \$42,000. Additionally, the significant financial impact to the Sheriff's Office includes 3,737 Brevard County Jail inmates who required medical treatment for opioid addiction during 2018 and the financial impact for investigation relating to overdose deaths, (Brevard County 172 overdose deaths in past 24 months).

16. In 2018, the Florida Legislature presented the Marjory Stoneman Douglas High School Public Safety Act to protect Schools, Students, and the Educational Staff from the threat of active shooters and mass casualty threats. The statute mandates school security. The Sheriff's Office operated with 10 School Resource Deputies prior to the legislative act. As of August 2019, the Sheriff's Office will operate with a sworn School Security component of 40 school resource deputies. The school reimbursement program funds a portion of the financial impact with an unfunded FY 2019-2020 fiscal impact to the Sheriff's Office of \$1,002,511 (not including \$650,000 in associated equipment and vehicles costs). Additionally, the current Board's Comprehensive Plan deputy deficit coupled with the School Security component results in a patrol deputy deficit of 100 patrol deputies.

17. The Florida Department of Highway Safety and Motor Vehicles has a strategic goal of 100% electronic uniform traffic citation submissions. As a direct result, the Sheriff's Office will need to equip 500 patrol vehicles with electronic citation printers. The overall financial impact is \$250,000.

18. The Sheriff's Office operates two 8000 series FLIR (Forward Looking Infrared Imaging Systems) cameras (acquired 2004 & 2008) on the Aviation Unit OH-58 Helicopters. The dated analogue systems are in need of HD replacement with the warranty program for maintenance and repairs expiring October 1, 2019. FLIR systems permit personnel to direct resources to a suspect or missing person, thereby, reducing the risk to the law enforcement personnel on the ground. The Financial Impact for replacement is \$1,100,000.

19. The Sheriff's Office utilizes the Brevard County Radio 800MHz Network for public safety communications. Currently, the Agency operates approximately 1,645 mobile, portable, and base station radios on the network. This network has been going through major upgrades and will be migrating to the P25 radio standard in FY2023. As a result of this mandatory migration, the current radio inventory will need to be replaced. Over the next 4 budget cycles, a total fiscal impact of \$6,459,722 in radio replacement equipment will be realized. (Annual fiscal impact \$1,614,930).

20. The Sheriff's Office is currently operating inmate transportation to and from the three courthouses with a 1997 Blue Bird bus, which has in excess of 200,000 miles, for court related hearings and trials. The bus is the primary mode of transport for inmates. Due to the age and amount of mileage accumulated, the bus is in constant need of maintenance and repair. When the bus is not operational, transport vans, which hold a smaller number of inmates and requires additional personnel, are used to accomplish the transport mission. The fiscal impact of \$155,417 would be realized to replace.

21. Finally, as true fiscal partners with the Board, the Sheriff's Office is providing solutions and funding for critical operational capabilities, adequate space needs, infrastructure

upgrades and repair needs in the form of \$542,000 in annual debt payments to the Board for the North Precinct Building and the CAD/RMS/JMS; and an additional \$152,000 for the Sheriff's Office Parkway Complex - Communications Center 800 Mhz Radio Tower that required structural repair and upgrades to allow for microwave connectivity to the 800 Mhz radio system, generator, and dedicated data circuits.

22. The Board of County Commissioners finds that the Sheriff's Office has set forth facts that give rise to critical needs in the BSCO for the purposes of section 2.9.3.1(c) of the Brevard County Charter.

23. In accordance with section 2.9.3.1(c), the Brevard County Board of County Commissioners finds that the foregoing paragraphs 2-22 set forth ultimate facts that give rise to critical needs in the Law Enforcement MSTU services, programs and improvements in the upcoming fiscal year.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida that:

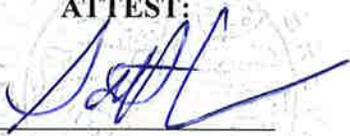
a. The Board hereby makes the finding that the facts and circumstances described in the foregoing paragraphs 1-22, are ultimate facts warranting the Board of County Commissioners to impose an ad valorem tax in the next fiscal year, for Law Enforcement MSTU, at a proposed rate of 1.1142 mills, which exceeds the rate limitations imposed by paragraph 2.9.3.1 (a) of the Brevard County Home Rule Charter and that such an excess is necessary because of the critical needs established by the ultimate facts set forth above.

b. The estimated increase in ad valorem tax revenue resulting from the proposed increased in the Law Enforcement MSTU ad valorem millage rate is \$1,765,605.

c. The foregoing finding is made and effective as having been adopted by a supermajority of the Board concurring in a finding that such an excess is necessary because of the critical needs described above.

DONE, ORDERED AND ADOPTED this 23 day of July, 2019

ATTEST:



Scott Ellis, Clerk of the Circuit
Court

Brevard County Board of County Commissioners

BY:



Kristine Isnardi, Chair

(Approved by supermajority of the Board on July. 23, 2019)