



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## New Business - Miscellaneous

J.4.

2/22/2022

**Subject:**

District 2 Proposed Motion

**Fiscal Impact:****Dept/Office:**

District 2 Commission Office

**Requested Action:**

Request the Board to consideration motion by District 2.

*2 memos  
for J.4.*

**Summary Explanation and Background:**

This motion seeks BOCC authorization to create a new authorized expenditure for District 2 Allocation fund which was established within the overall \$5M District 2 allocation of CARES Act funding. This motion does not seek to expand the overall amount allocated to District 2 and funding this expense would take place through reallocation of funds from existing approved categories in which utilization has proven below that which was budgeted and anticipated. The expense is for replacement of air conditioning at the H.S. Williams House (AKA: Lawndale Museum) in Rockledge. The home was built in 1880. Both the land itself and the structure on it are presently owned by Brevard County; it was purchased by Brevard County in 1989 and leased back, at a nominal rate, to a nonprofit group which operates it as a museum. It is anticipated that the nonprofit will pay approximately \$6000 toward an anticipated \$21,000 total cost for AC replacement. The remaining \$15,000 toward the \$21,000 total would be derived from reallocation of existing D2 CARES Act funds. This motion also seeks to authorize staff to execute any necessary budget change requests to effectuate the objectives articulated herein. So, too, would this motion authorize the County Attorney's Office to draft a contract with the nonprofit to ensure that any equipment and/or fixtures installed in relation to this proposal not be removed and remain with the property and that all applicable rules and regulations are followed. Lastly, the Chair is authorized to sign said contract. County Finance, County Budget, the County Attorney's Office, Central Services, Parks & Recreation, and District 2 have all reviewed this request and believe it to be compliant with all applicable rules and regulations.

**Clerk to the Board Instructions:**



February 23, 2022

**MEMORANDUM**

**TO:** Commissioner Bryan Lober, District 2

**RE:** Item J.4., Allocation of District 2 Coronavirus Aid, Relief, and Economic Security (CARES) Act Funding

The Board of County Commissioners, in regular session on February 22, 2022, authorized creating a new expenditure for District 2 allocation of CARES Act funding from existing approved categories in which utilization has proven to be below that which was budgeted and anticipated, and does not seek to expand the overall amount allocated to District 2, for replacement of air conditioning at the H.S. Williams House, Lawndale Museum, Rockledge, it is anticipated that the non-profit will pay approximately \$6,000 towards the anticipated \$21,000 total cost for the air conditioning replacement, and CARES Act funding will pay the other \$15,000; authorized staff to execute any necessary Budget Change Requests; authorized the County Attorney's Office the flexibility to amend an existing Contract, or draft a new contract, with the non-profit to ensure that any equipment and/or fixtures installed in relation to this proposal not be removed and remain with the property, and that all applicable rules and regulations are followed; and authorized the Chair to sign the Contract amendment if it ends up being an amendment.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
RACHEL M. SADOFF, CLERK

*Donna Scott*  
for: Kimberly Powell, Clerk to the Board

cc: County Manager  
County Attorney  
Finance  
Budget



February 23, 2022

**M E M O R A N D U M**

**TO:** Commissioner John Tobia, District 3

**RE:** Item J.4., Allocation of District 2 Coronavirus Aid, Relief, and Economic Security (CARES) Act Funding

The Board of County Commissioners, in regular session on February 22, 2022, approved the request that a specific allocation Plan for all remaining CARES Act dollars, be provided to the Board by the March 22, 2022, Regular Board of County Commissioners meeting, or the remaining unallocated CARES Act funds shall be moved to the Public Safety Fund.

Your continued cooperation is always appreciated.

Sincerely,

**BOARD OF COUNTY COMMISSIONERS**  
**RACHEL M. SADOFF, CLERK**

*Donna Scott*  
for: Kimberly Powell, Clerk to the Board

**cc:** Each Commissioner  
County Manager  
County Attorney  
Finance  
Budget

## February 22, 2022, Verbatim of Item J.4., District 2 Proposed Motion

Zonka – All right, moving on to Item J.4., Commissioner Lober.

Lober – Yeah, I don't want to spend too much time because, I know, we're already kind-of getting late in the day here. Um, reading what's already in the summary explanation and background, the one addendum that I'll put on there though, is I did speak with County legal, and Abby's asked me to give to give her just a little bit more flexibility, um, with respect to this. So, the motion that I'll make would be to approve this, with the one modification of also allowing Abby, at her discretion to amend an existing contract instead of entering into a new contract, if that's something that she deems to be a better option, and then also in accordance with that, to authorize the Chair to sign an amendment if it ends up being an amendment, and not a new contract outright. If someone wants more information thought, I'm happy to give it to them.

Zonka – Commissioner Pritchett.

Pritchett – Yes, Sir, just, just a quick request.

Lober – Yeah.

Pritchett - And we're going to talk about the, the Board objectives in a minute, but, um, you're going to... We're just going to do this. County is going to write a check out to it and sign it, and send it off, right?

Lober – That's my understanding.

Pritchett – Okay. Perfect. Thank you.

Zonka – Commissioner Tobia.

Tobia – Thank you, Madam Chair, um, and, and I know the Board certainly gave this discretion to, uh, Commissioner Lober, when it came to, uh, CARES Funds. I think, we said, as long as it, you know, met the parameters, was legal, we were, uh, we're supporting that. Um, so, uh, and, uh, in full disclosure, I don't have any resources left. I don't know. I, I think, uh, Chair Zonka, also does not have any resources left. So, that's as far as I know on this one.

Pritchett – Mine are gone, as well.

Tobia – Oh, yours are gone, as well. Okay. So. So. I probably should have.

Pritchett – So are Curt's.

Zonka – And so are Curt's.

Tobia – Done my research.

Pritchett – Yeah.

Zonka – Curt's are, too.

Tobia – Uh, so the motion is not aimed at anyone. I just, you know, at some point for accounting purposes, so, my, my, uh addition to this, and, again, I'll support, I'll support this because it sounds as though, uh, if Abby's looked over its legal, and no concerns there. But, uh, I would, uh make

a motion the Board must provide, be provided with an allocation plan for all remaining CARES Funds Act, by March 22<sup>nd</sup> of 2022, regard, uh, the regular Commission meeting or the remaining balance shall be moved into the Public Safety Fund, at, at, at some point, you know, these CARES Funds, um, for a whole bunch of reasons. Many we may hear later. We just need to take this, you know, issue off the table.

Lober – That's, that's fine. If you want to make a motion, I can second it, but alternatively, I can just tell you, I'll bring you back a plan if you want that instead. Instead of going through all the formality. Whatever you want. You want me to just bring back a plan?

Tobia – For?

Lober – By March 22<sup>nd</sup> to... I'll go play back the audio and pull exactly what you said. I have no issue doing that.

Tobia – I. I.

Zonka – Commissioner Tobia.

Tobia – Madam. I fully trust... I fully trust you the, the, the allocation plan though would assume that those funds are fully expended 30 days after that plan is, uh, presented, and, and, and listen, as long as it's legal my word is, my word is there I will vote for your plan, uh, but at some point, you know, stretching this out, I don't know, for this length is causing issues. Uh, you know for, as you're aware of things we've read in the paper, and certainly want to take that off the table.

Lober – Right. Right, and I'll just, if I may, Madam Chair.

Zonka – Sure.

Lober – A couple thoughts. First, I agree with everything except the 30 days after, and I'm happy to get into detail as to why that's a problem. Uh, even BCFR has some funds that I've allocated to programs that they're running, that are ongoing, and they probably will not be fully expended within 30 days. If you want a plan, I can get you a plan easily within a month's time. That's not a problem. They're already divided largely into pots that, that I have a spreadsheet for that exist. I just have to update the numbers, in order to make sure it's current for you. I could probably do it. Forget it in 30 days, I could probably do it in half that time or less, um, but I don't know that I'm going to be able to expend them in 30 days without changing, substantially the allocations that have taken place, and a lot of these allocations, uh, even when it comes to doing things like, uh, additional training for BCFR personnel. We would have to throw that out, if we had a 30-day deadline, because that's not something that could be completed without massively changing what's been put in place in a 30-day timeline. But, I, yeah, I, I would, I would either support a motion absent the 30-day to expend it, to bring back a plan by March 30<sup>th</sup>, or an intended plan by then, or if you want I can just bring it back without a motion and if you want, I'm happy to address which items I think would take longer than 30 days to expend.

Zonka – But in reality those expenditures of funds, those allocations, can be made to those respective departments. They don't have to expend the funds, but you could make it that allocation to that Department. So, there would be no hold up to that 30 days.

Lober – But then the money still wouldn't... The problem is it's still going to exist in the County's budget. It's. It's not.

Zonka – But, you'll have expended it from your portion of the CARES Fund.

Pritchett – It's encumbered at that point.

Zonka – Yeah.

Pritchett – So, it's like held in a different area.

Lober – I don't. I'd have to defer to Jill or to Frank, on whether or not it's technically encumbered. I don't think until it's obligated it's encumbered.

Pritchett- If it allocated.

Zonka – I think, once you've allocated it to the department. You've. You've already given already given it to the Department, so it's out of your hands. I think, that was Commissioner Tobia's concern.

Lober – Okay. If.

Tobia – Obligated.

Zonka – Correct me if I'm wrong.

Tobia – Yeah, obligated, Madam Chair.

Zonka – Okay.

Lober – And, I.

Zonka – Commissioner Pritchett.

Lober – We may have a different legal definition.

Pritchett – Yeah, I was just... Well, the accounting thing is when you've already put it towards a one thing and it's held in that thing. There's, there's like a legal obligation on it which encumbers it, but either way it doesn't matter. But, I think if you bring forth the plan and you, you send it forth, and it's allocated at that time and it's reserved just for that, it's out of your hands at that point and it goes into County's hands, and, and, they'll have it under budgets under the allocations, and what can it, can't be spent. So, um, I think, you, if you bring a plan, we'll just move forward with that, and we've already got it set forth where all the funds are going at that point and kind-of spent, even though they're not all put in other people's hands. So.

Zonka – Mr. Heffelfinger. Okay, let you get up here.

Lober – And, as he's coming up Madam Chair, if I can, just real briefly, if it's all right with you all, I'll bring back a plan, uh, and break it down, and if there's some discussion to be had as to whether something meets your definition of allocated, I think we can hash that out or maybe I can talk to Jill beforehand. But, I'm not sure that it's technically obligated when it's transferred, essentially from my authority or the authority that was delegated to me by the Board, to a particular Department. I don't know that I would use the term obligated, because I think that's, that's actually not the meaning of the word.

Pritchett – I think it needs to be.

Zonka – Hi.

Heffelfinger – Hey, Rick Heffelfinger, 2000 Juniper Drive, Cocoa, Florida, 32926. I'm getting good at that. Um, this is, when I talked about that public records request earlier, one of my public records request that got denied, there was documentation was on this CARES topic. So, this one is... As far as I'm concerned, this whole thing smells. This is the \$5 million dollar slush fund, right? That, I think somebody called it a slush fund. I think it was the Clerk of Courts at the time, but this is that \$5 thousand dollars that you've got allocated to each of you and you guys burned it up, and you have it. And I think... Doesn't, uh, yeah right, the guy on the phone... Curt.

Zonka – Curt Smith.

Heffelfinger – Curt Smith. I think Curt Smith may still have some money, right? Because everybody else has burned it up.

Pritchett – It's all allocated.

Heffelfinger – Curt's is gone. Um, I guess I can do a public records request. You said you have a spreadsheet that shows how much you have left or you can disclose that now.

Lober – I. I just said I had to put the numbers together, to plugin current numbers for the sheet.

Heffelfinger – Okay.

Lober – I'm not going to guess off the cuff to particular numbers.

Heffelfinger – Well, okay.

Lober - Because if I'm off by a penny, I'm going to get excoriated for it.

Heffelfinger – Alright. Well, then, I'll just ask for your guidance here. If I was going to do a public records request for your spreadsheet. You said you'd do one for the... Should I give that to you or should I type it into the computer and let it go through legal, or how should I get that?

Lober – If you want to email me and copy legal or email legal and copy me, I can get it to you. If you want the existing spreadsheet, understanding full well the numbers aren't as of five minutes ago, but there, I believe as of a few weeks ago.

Heffelfinger – Okay.

Lober – I can give that to you in very short-order, that's not going to be a month turnaround. That'll be within a day, I would presume.

Heffelfinger – Okay. Um, if I also wanted to see where all the funds went that were expended prior to this plan to burn it down?

Lober – The best resource for that would be the Comptroller's Office, so it would be under the Clerk.

Heffelfinger – Okay.

Lober – They have the cost centers and funds that are associated with every expenditure, so you can determine funding sources based on that.

Heffelfinger – Is that money currently in a fund earning interest? Is it invested or is it statically sitting somewhere?

Lober – That, I don't know. I would imagine there's interest, but I'm going to defer to Jill on that, as far as your short-terms.

Hayes – Um, yeah, it is part. It's. It's in its own separate fund and within the General Fund group, so the interest earnings in that fund have become part of the General Fund overall.

Heffelfinger – Okay. So, so holding on to that's actually making you some money then. I could see why you wouldn't... Might want to hold onto it longer, but.

Lober – Well.

Heffelfinger – It's an investment.

Lober – It's making General Fund money, it's not that it benefits any, anyone in particular.

Heffelfinger – Yeah. Well, I. I think. Okay, I'll. I'll make some requests to get some information, because this one's been burning my butt ever since this happened. So, hey, thank you for your time. Thanks for your info.

Zonka – Thank you.

Lober – So, I think I've articulated, with that being the only comment card. The one change, or I should say the two changes essentially to allow the Chair to sign and to allow Abby to draft an amendment instead of a brand new contract, should she determine that's the way to go. Otherwise, I'd just move to approve it as it's listed, with those two changes.

Zonka – Okay, is Commissioner Tobia's motion going to be separate?

Tobia – Madam Chair, I'm gonna. I. I trust, uh, Commissioner Lober on, on this one. My understanding and I'm, I'm sorry is obligated. He may have a different understanding of that. He may want to meet with, uh, um, Ms. Hayes on that one, but I certainly will be bringing that up in the 30 days, that the funds, uh, are, are obligated... Ah, at that point...

Zonka – I would prefer it be part of the motion, so it's very clear. Abby, is that.

Tobia – Madam Chair.

Zonka – He wouldn't be bound by that if we didn't make it part of the motion?

Jorandby – Well, I mean at that point it. No, it's not part of the motion, it's something obviously he voluntarily is doing, but if you make it part of the motion then...

Tobia – So. Okay. Madam Chair.

Zonka – Yes.

Tobia – So, I've said on the record that, as long as it was legal, uh, you know, that, that I would support the, uh, expenditure of those funds. So. Um. I. I would prefer them to be different motions.

Zonka – Okay.

Tobia – The first, uh, and it's completely up to you. This.

Zonka – That's fine.



Tobia – I'd rather them bifurcated. I. I will support this one as it stands. Uh, if you would like another motion that in 30 days the, the funds, uh, are obligated, I would support that as well.

Zonka – I would prefer that. Yeah. All right, do we have a second on Commissioner Lober's motion to expend these funds for this purpose?

Tobia – Second.

Zonka – Second, by Commissioner Tobia. All those in favor say aye.

Lober – Aye.

Pritchett – Aye.

Tobia – Aye.

Zonka – Aye. Any opposed? Motion passes unanimously, and Commissioner Smith had to leave, because he's, he's out of town for a wedding. So, he had to go to the wedding. So.

Lober – If.

Zonka – Just for the record.

Lober – If, I may, Commission. Uh, Commissioner Tobia, I would say, again, I have no problem bringing the plan back with or without a motion. The only concern I have is that we have the same understanding as what it means to be obligated. That's the only concern that I have with motion.

Zonka – Ms. Abby, or Ms. Jorandby, can we ask you, the legal definition of obligated? Is it clear? What would you prefer that language to be?

Jorandby – So, I'm. I'm. I'm looking online as, as we were discussing this and it looks like the obligation of funds is defined as a legal liability to disperse the funds immediately or at a later date, as a result of series of actions. So.

Lober – I don't think it needs it.

Jorandby – I. I would have to look more into that and then these are accounting terms, so I'm not that familiar with them as much as they should be, but, I mean there is... Um. There is a term of art to that. So, I'm just trying to find that answer for you, but I don't have that right now. So, I mean, I think, the intent is to have them marked I suppose. Is that the word you want to use, or obligated, or allocated?

Pritchett – Let's use encumbered.

Jorandby – Or. You're using encumbered. I can look at that as well.

Pritchett – Because that's. Encumbered is restricted and the action is to find anywhere else to place those except for the designated area, is very difficult to do. So, when we, um, apply these funds into a certain, um, project that's where these funds have got to go.

Zonka – Mr. Abbate.

Abbate – I believe, if what the Commission does is, as part of the plan tells us where those resources will be allocated, for what purpose, then the timeline would be fine. So, it's really... Once the plan allocates the resources for a specific purpose, then staff will take it from there, and

fulfill that purpose. The timeline, as Commissioner Lober said, may be an extended timeline for doing it, but all those funds will be used for that particular purpose.

Zonka – Right.

Lober – So, just think if there...

Zonka – I think, Commissioner Tobia, I think you just wanted them allocated. Correct?

Tobia – Uh, yeah, obli... Yeah, allo... Yeah, obligated. I just wanted to take the issue off the, the table that may or may...

Lober – Just use the term allocated and they'll support it, and I think, it gets done what you want.

Tobia – Uh. I. I guess Ms. Hayes is probably the best to... I'm sorry. Since she's the, the point person on this.

Hayes – I think the, the language you used initially in your motion. You said expended, which means the funds would be spent, um, an actual expenditure.

Tobia – Yes.

Hayes – Um, you know.

Tobia – Yes...

Hayes – The terms obligated, I think for us allocated, allocated for a specific purpose. Um, currently there are... We have certain categories where there is up to a certain amount that can be spent, so, um, I think what you're asking for is a allocation of those specific dollar amounts.

Tobia – Okay. That sounds good. Thank you for doing that, because if not, I might have had to go to the Citizen Budget Review Committee to get a better response on that one.

Zonka – That's so mean.

Tobia – Sorry.

Zonka – All right, so do you have a motion?

Tobia – Yes, Madam Chair, uh... The Board must be provided with a specific allocation plan for all remaining CARES Funds Act by March 22, 2022, regular Commission meeting, or the remaining funds that are not allocated, or obligated shall be moved to the Public Safety Fund.

Lober – That's fine. Second.

Zonka – Okay, I have a motion, and a second. Any further discussion? All right, motion passes 4:0.