

56-2

Agenda Item #:

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: May 19, 2009 [] Consent [X] Regular

Department [] Public Hearing

Submitted By: County Attorney's Office
Submitted For: Tourist Development Council

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve on preliminary reading and advertise for public hearing on June 2, 2009, at 9:30 a.m.: an Ordinance of the Board of County Commissioners of Palm Beach County, Florida, amending Section 17-116 of the Code of Laws and Ordinances; as codified in the Tourist Development Ordinance of Palm Beach County, Florida, Ordinance 95-30, as amended; providing for an amendment to the Tourist Development Plan to authorize the expenditure of additional tourist development tax revenues for the promotion and marketing of Palm Beach County tourism and to establish a reserve for the repair and maintenance of a professional Sports Stadium and a Convention Center; providing for repeal of laws in conflict; providing for a savings clause; providing for severability; providing for inclusion in the Code of Laws and Ordinances; providing for enforcement; providing for penalty; providing for applicability; and providing for an effective date.

Summary: This Ordinance provides for an amendment to the County's Tourist Development Plan to authorize the expenditure of the bed tax operating reserve fund of the 1st Cent of the Tourist Development Tax ("bed tax") for a marketing stimulus campaign of \$3 Million to promote County tourism by all agencies and to establish a reserve for repairs and maintenance of a professional sports stadium and a convention center. Countywide (MC)

Background and Policy Issues: Beginning December 1, 2006, the County increased the levy of its "bed tax" to a fifth percent which revenues were allocated in the Tourist Development Plan for improvements to the Convention Center. Those revenues have not yet been spent on the Center.

(Continued on Page 3)

Attachments:

1. Proposed Ordinance

Recommended by: _____

Department Director

Date

Approved by: _____

Assistant County Administrator

Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2009	2010	2011	2012	2013
Capital Expenditures	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Operating Costs	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
External Revenues	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Program Income (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
In-Kind Match (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
NET FISCAL IMPACT	<u>-0- *</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>

Is Item Included in Current Budget? Yes _____ No _____

Budget Account No.: Fund _____ Dept. _____ Unit _____ Object _____

Reporting Category _____

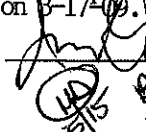
B. Recommended Sources of Funds/Summary of Fiscal Impact:

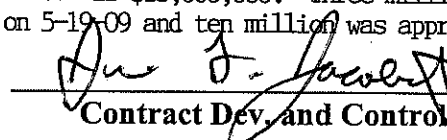
C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

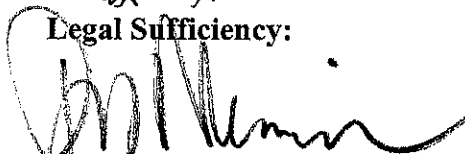
A. OFMB Fiscal and/or Contract Dev. and Control Comments:

* The total net fiscal impact associated with this item is \$13,000,000. Three million is reflected on a separate agenda item going before the BOC on 5-19-09 and ten million was approved by the BOC on 5-17-09.

 5/18/09
OFMB 5/19/09

 5/18/09
Contract Dev. and Control

B. Legal Sufficiency:


County Attorney

C. Other Department Review:

Department Director

THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT.

At the April meeting of the Tourist Development Council, representatives of the Palm Beach County Convention and Visitors' Bureau (CVB), the Palm Beach County Cultural Council (Culture), the Palm Beach County Sports Commission (Sports) and the Palm Beach County Film & TV Commission (Film) presented a plan for a multi-prong marketing stimulus campaign to promote County tourism in light of the declining trends in hotel occupancy and the overall downturn in the economy. This campaign would focus on marketing the County's visitor accommodations, restaurants, attractions, sporting venues, retail outlets, cultural venues and eco-tourism assets. The TDC recommended that the Board allocate \$3 Million in unspent revenues of the first percent of bed tax revenues for this stimulus campaign during this fiscal year.

In addition, the County's Facilities Development & Operations Department recommended to the TDC that bed tax revenues be allocated to set up a reserve account to pay for the renewal and replacement costs at the Roger Dean Stadium and the Convention Center. This request was considered by the TDC's Finance Committee and the TDC board which made recommendations for funding to the BCC. The BCC determined that \$10 Million in bed tax revenues from the first percent should be set aside into a reserve account for these purposes.

This Ordinance amends the Tourist Development Plan to provide for the allocation of bed tax revenues from the first percent of bed tax revenues for the marketing stimulus campaign and for a reserve account for the repair and maintenance at the Roger Dean Stadium and the Convention Center.

ORDINANCE NO. 2009-

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING SECTIONS 17-116 OF THE CODE OF LAWS AND ORDINANCES; AS CODIFIED IN THE TOURIST DEVELOPMENT ORDINANCE OF PALM BEACH COUNTY, ORDINANCE 95-30, AS AMENDED; PROVIDING FOR AN AMENDMENT TO THE TOURIST DEVELOPMENT PLAN TO AUTHORIZE THE EXPENDITURE OF ADDITIONAL REVENUES FOR THE PROMOTION AND MARKETING OF PALM BEACH COUNTY TOURISM AND FOR THE REPAIR AND MAINTENANCE OF A PROFESSIONAL SPORTS FACILITY AND CONVENTION CENTER; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR ENFORCEMENT; PROVIDING FOR APPLICABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the "Local Option Tourist Development Act" set forth in Section 125.0104, Florida Statutes, (hereinafter "statute"), authorizes the Board of County Commissioners (hereinafter "Board") to levy and impose a tourist development tax on the exercise within the County boundaries of the privilege of renting, leasing, or letting for consideration any living quarters or accommodations in any hotel, apartment hotel, motel, resort motel, apartment, apartment motel, roominghouse, mobile home park, recreational vehicle park or condominium for a term of six (6) months or less; and

WHEREAS, pursuant to the authority established in that statute, the Board enacted Ordinance 95-30 which has been amended from time to time and codified in Sections 17-113 through 17-116 of the Code of Laws and Ordinances relating to the Palm Beach County Government (hereinafter "Ordinance"), which levied a five (5) percent tourist development tax (also known as the "bed tax") for certain permissible uses as set forth in the statute; and

WHEREAS, the Ordinance established a Tourist Development Plan (hereinafter "Plan") which sets forth the specific uses and allocation of the revenues of the "bed tax"; and

WHEREAS, the TDC has determined that there is a need to infuse additional monies into the County's tourism promotional program ("promotional program") to support a multi-prong marketing campaign to promote increased usage of the County's tourist

accommodations, restaurants, attractions, sporting venues, retail outlets, cultural venues and eco-tourism assets; and

WHEREAS, in addition, the Board determined that there is a need for certain repairs and maintenance to be made to the Roger Dean Stadium ("Stadium") located in Jupiter, Florida, and to the Palm Beach County Convention Center ("Convention Center") located in West Palm Beach, Florida; and

WHEREAS, the Board hereby finds that the expenditure of revenues from the bed tax for the promotional program and for the repairs and maintenance for the Stadium and the Convention Center will advance, further and promote Palm Beach County tourism; and

WHEREAS, the Board wishes to amend the Plan to provide for the funding of such projects from the operating reserve fund of the first (1st) percent of bed tax revenues.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

Section 1. *Section 17-116. Tourist development plan* is hereby amended to read as follows:

Sec. 17-116. Tourist development plan.

The tax revenues received pursuant to this article shall be used to fund the Palm Beach County Tourist Development Plan which is hereby adopted as follows:

PALM BEACH COUNTY TOURIST DEVELOPMENT PLAN

(a) *Purpose.* Pursuant to the provisions of the Local Option Tourist Development Act, this tourist development plan (hereinafter the "plan") establishes the uses of the tax revenue by specific project or special use as authorized in Florida Statutes, § 125.0104(5).

The plan also includes the expense allocation by the percentage for each specific project or special use.

(b) *Use and allocation of tax revenues.* The following categories of use of each individual percent of the bed tax are set forth below in subsection (1) with the percentage of the total amount of yearly revenue to be expended for, or credited to, each category, subject to the provisions of subsection 3 of this section 17-116, as set forth in subsection (2):

(1) *Categories of use:*

- a. Category A: Promote and advertise county tourism in the state and nationally and internationally, including the provision of a convention and visitors bureau.
- b. Category B: Provide for cultural and fine and non-fine arts entertainment, festivals, programs, and activities which directly promote county tourism.
- c. Category C: Provide for beach improvement, maintenance, renourishment, restoration, and erosion control with an emphasis on dune restoration where possible.
- d. Category D: Provide for film and television marketing and development activities which directly promote county tourism.
- e. Category E: Provide for special major projects and events which directly further, advance, improve, promote and generate county tourism: To be selected and funded pursuant to subsection 3 of this section.
- f. Category F: Provide for the operation and maintenance of a convention center. To be funded pursuant to subsection 3 of this section.
- g. Category G: Attract, stimulate, market, and execute sports events and activities in order to promote the county nationally and internationally as a sports destination, including the financing of the construction of Blum Stadium, a sports stadium all which directly promote county tourism.
- h. Category H: Construct, extend, enlarge, remodel, repair, and/or improve a convention center.
- i. Category I: Provide payment on:
 - 1. debt service relating to bonds issued to finance the construction of professional sports franchise facilities and a convention center;
 - 2. the planning and design costs incurred prior to the issuance of such bonds; and

3. the operation and maintenance cost of a convention center for ten (10) years.

(2) Percent of yearly revenue:

Category	1 st percentage Tax	2 nd percentage tax	3 rd percentage tax	4 th percentage tax	5 th percentage tax	Total 2 nd , 3 rd , and 5 th
A		16.05	16.05		20.37	52.47
B		6.89	6.89		8.73	22.51
C		7.05	7.05			14.10
D		1.20	1.20		1.52	3.92
E	See subsection (c)(1) of this section 17-116					
F	See subsection (c)(1) of this section 17-116					
G		2.14	2.14		2.72	7.00
H	100					
I				100		

(c) *Special Allocations:*

(1) *Allocations for convention center operations and maintenance and special major projects and events.*

Notwithstanding the percentages allocating the initial three (3) percent of the bed tax revenues to the various categories of uses as set forth above in subsection (b), each year a total of two hundred fifty thousand dollars (\$250,000.00) of the second and third percent of bed tax revenues shall be allocated for the operation and maintenance costs of a convention center (Category F) and a total of one hundred fifty thousand dollars (\$150,000.00) of the second, third and fifth percent of the bed tax revenues shall be transferred into an account (Category E) which shall be reserved for special major projects and events which may arise from time to time offering the county the opportunity to further, advance, improve, promote, and generate county tourism. The TDC shall authorize expenditures for such projects upon review and assurance that the project or event is a use authorized under *Florida Statutes*, § 125.0104(5), and is consistent with the plan. The Category E reserve account shall not exceed one million dollars (\$1,000,000.00). In the event the account balance does exceed one million dollars (\$1,000,000.00), the excess

revenues shall revert to Categories A, B, C, D, and G in the percentages allocated in subsection (b).

(2) *Special allocations from the operating reserve fund of the (1st) percent tax:* Notwithstanding the allocation of the first (1st) percent of bed tax revenues to the use provided for in Category H:

(a) Three million dollars (\$3,000,000.) of the operating reserve fund of the first (1st) percent of the bed tax shall be immediately allocated for the promotion and marketing of Palm Beach County tourism; and

(b) Ten million dollars (\$10,000,000.) of the operating reserve fund of the first (1st) percent of the bed tax shall be transferred into a reserve account to pay the costs for repairs and maintenance of a convention center and a professional sports stadium which funds may be expended upon approval in the amounts set forth in a budget approved by the Board.

(c) Upon fulfillment of the funding obligations set forth above in subsections 2 (a) and (b), revenues from the first (1st) percent of the bed tax shall be allocated for Category H uses.

(d) *Sports franchise facilities and convention center.* A tourist development plan for professional sports franchise facilities and/or a convention center must be approved by resolution of the board for the purpose of advancing, promoting, and furthering county tourism. The facilities and/or convention center identified in the plan(s) may be amended by resolution of the board. The levy of the fourth cent shall automatically expire upon the retirement of all bonds issued to pay the debt service for the financing of a professional sports franchise facilities and/or a convention center.

(e) *Retirement of debt for construction of Blum Stadium.* The provision of Category G of subsection (b) of this section authorizing the use of revenues to finance the construction of a sports stadium shall sunset upon the retirement of all debt incurred to finance the construction of Blum Stadium.

(f) *Administrative expenses.* There shall be an annual amount established for administrative expenses which shall not exceed nine (9) percent of the total budget. Administrative expenses shall include administrative staff salaries, benefits, administrative

travel, indirect costs, and all costs of furnishing and operating administrative offices whether paid directly or by reimbursement, except that funds for contractual services from the administrative budget may be expended upon the express approval of the council.

(g) *Annual review of plan.* The council and the board shall annually review the plan. On or before September 1 of each year the council shall forward to the board its recommendation for revisions, if any, to the plan. The board shall review the plan and determine the most effective use of the revenues derived from the tax.

(h) *Amendment of plan.* Except as provided in *Florida Statutes*, § 125.0104, *Florida Statutes*, to the contrary, the above tourist development plan may not be substantially amended except by ordinance enacted by an affirmative vote of a majority plus one (1) additional member of the board of county commissioners.

Section 2. Repeal of Laws in Conflict.

All local laws and ordinances in conflict with any provisions of this Ordinance are hereby repealed to the extent of such conflict.

Section 3. Savings Clause:

Notwithstanding anything to the contrary, all provisions of Palm Beach County Code Section 17.111 through 17.116, codifying Palm Beach County Ordinance No. 95-30, as amended, are specifically preserved and remain in full force and effect for the limited purpose of enforcing any alleged violations of said Code which occurred prior to its repeal or amendment.

Section 4. Severability:

If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by a Court of competent jurisdiction to be unconstitutional, inoperative, or void, such holding shall not affect the remainder of this Ordinance.

Section 5. Inclusion in the Code of Laws and Ordinances:

The provisions of this Ordinance shall become and be made a part of the Palm Beach County Code. The sections of this Ordinance may be renumbered or relettered to accomplish such, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 6. Enforcement:

This Ordinance is enforceable by all means provided by law. Additionally, the County may choose to enforce this Ordinance by seeking injunctive relief in the Circuit Court of Palm Beach County.

Section 7. Penalty:

Any violation of any portion of this Ordinance shall be punishable as provided by law.

Section 8. Captions:

The captions, section headings, and section designations used in this Ordinance are for convenience only and shall have no effect on the interpretation of the provisions of this Ordinance.

(Remainder of page intentionally left blank)

Section 9. Effective Date:

The provisions of this Ordinance shall become effective upon filing with the Department of State.

APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach County, Florida, on this the _____ day of _____, 2009.

SHARON R. BOCK,
CLERK & COMPTROLLER
PALM BEACH COUNTY

PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

By: _____
Deputy Clerk

By: _____
John F. Koons, Chairman

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: _____
County Attorney

EFFECTIVE DATE: Filed with the Department of State on the _____ day of _____, 2009.