

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: September 14, 2010

☐ Consent☒ Regular☐ Public Hearing

Department

Submitted By: COUNTY ATTORNEY

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 10/19/10, at 9:30 a.m.: an Ordinance of the Board of County Commissioners of Palm Beach County, Florida, amending Sections 17-115 and 116 of the Code of Laws and Ordinances; codifying the "Tourist Development Ordinance" of Palm Beach County, Florida, Ordinance 95-30, as amended, providing for an amendment to the Tourist Development Plan relating to the expenditure of 'Bed Tax' revenues for the payment of debt service for bonds issued to finance the planning, design and construction of a professional sports franchise facility and a convention center and for the operation and maintenance of the convention center; providing for compliance with a revised code of ethics; providing for repeal of laws in conflict; providing for severability; providing for inclusion in the Code of Laws and Ordinances; and providing for an effective date.

Summary: This Amendment to the TDC Ordinance authorizes the expenditure of TDC "bed tax" revenues for debt service payments for bonds issued for the planning, design and construction costs of the Roger Dean Stadium and Convention Center and operational costs of the Convention Center. These expenditures have been paid exclusively from 4th cent TDC revenues. However, due to declining "bed tax" receipts, it will be necessary, in order to meet these debt service obligations, to use revenues from the 5th cent as well. This Amendment also provides for a revised Code of Ethics. Countywide (MC)

Background and Policy Issues: In 1997, the Board increased the Tourist Development Tax ("Bed Tax") from 3% to 4% to pay the debt service on bonds issued to finance the planning, design and construction costs of a professional sports franchise facility and convention center (Category I). Since that time one cent of the total "Bed Tax" revenues has been expended for those purposes.

(Continued on Page 3)

Attachments:

1. Proposed Ordinance

Recommended by: _____

Department Director

Date

Approved by: _____

Deputy County Administrator

Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

| Fiscal Years | 2011 | 2012 | 2013 | 2014 | 2015 |
|--|-------|-------|-------|-------|-------|
| Capital Expenditures | _____ | _____ | _____ | _____ | _____ |
| Operating Costs | _____ | _____ | _____ | _____ | _____ |
| External Revenues | _____ | _____ | _____ | _____ | _____ |
| Program Income (County) | _____ | _____ | _____ | _____ | _____ |
| In-Kind Match (County) | _____ | _____ | _____ | _____ | _____ |
| NET FISCAL IMPACT | _____ | _____ | _____ | _____ | _____ |
| # ADDITIONAL FTE POSITIONS (Cumulative) | _____ | _____ | _____ | _____ | _____ |

Is Item Included in Current Budget? Yes _____ No _____

Budget Account No.: Fund _____ Department _____ 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 Development and Control Comments:



OFMB

 9/2/10

Contract Development and Control

B. Legal Sufficiency:

 9-2-10

Assistant County Attorney

C. Other Department Review:

Department Director

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

In 2006, the Board levied an additional cent (5th cent) to provide for future improvements and repairs for the convention center (Category H). Since that time those revenues have been held in reserve for those purposes.

At the TDC Finance Committee meeting on December 14, 2009, forecasts were presented indicating that 4th cent revenues were declining and would not be sufficient to meet future obligations for the payment of the debt service for bonds issues for the Roger Dean Stadium and the Convention Center as well as operating costs for the Convention Center (Category I). The Finance Committee recommended to the TDC Board that revenues from the 1st cent, currently allocated only to Category H, be used to meet the future Category I expenses.

At the January 2010 TDC meeting, the Board unanimously approved amending the current TDC Ordinance to authorize the expenditure of the revenues from the 1st cent revenues to meet the future obligations of the Stadium and Convention Center beginning FY 2010-11.

1 AN ORDINANCE OF THE BOARD OF COUNTY
2 COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA,
3 AMENDING SECTIONS 17-115 AND 116 OF THE CODE OF
4 LAWS AND ORDINANCES; CODIFYING THE "TOURIST
5 DEVELOPMENT ORDINANCE" OF PALM BEACH COUNTY,
6 FLORIDA, ORDINANCE 95-30, AS AMENDED, PROVIDING
7 FOR AN AMENDMENT TO THE TOURIST DEVELOPMENT
8 PLAN RELATING TO THE EXPENDITURE OF 'BED TAX'
9 REVENUES FOR THE PAYMENT OF DEBT SERVICE FOR
10 BONDS ISSUED TO FINANCE THE PLANNING, DESIGN AND
11 CONSTRUCTION OF A PROFESSIONAL SPORTS
12 FRANCHISE FACILITY AND A CONVENTION CENTER AND
13 FOR THE OPERATION AND MAINTENANCE OF THE
14 CONVENTION CENTER; PROVIDING FOR COMPLIANCE
15 WITH A REVISED CODE OF ETHICS; PROVIDING FOR
16 REPEAL OF LAWS IN CONFLICT; PROVIDING FOR
17 SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE
18 OF LAWS AND ORDINANCES; AND PROVIDING FOR AN
19 EFFECTIVE DATE.
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23 **WHEREAS**, the "Local Option Tourist Development Act," Section
24 125.0104, Florida Statutes, authorizes the Board of County Commissioners
25 (hereinafter "Board") to levy and impose a Tourist Development Tax or "Bed Tax"
26 on the exercise within County boundaries of the privilege of renting for
27 consideration any living quarters or accommodations in any hotel, motel,
28 apartment, rooming house, mobile home park, recreational vehicle park or
29 condominium for a term of six (6) months or less; and

30 **WHEREAS**, pursuant to the authority established in that statute, the Board
31 enacted Ordinance 95-30, which has been amended from time to time and is
32 codified in Section 17-111 through 17-116 of the Code of Laws and Ordinances
33 relating to Palm Beach County, Florida Government, which Ordinance levied a
34 five percent (5%) tourist development tax for certain permissible uses as set forth
35 in the statute; and

36 **WHEREAS**, the Ordinance established the Tourist Development Plan
37 (hereinafter referred to as "Plan") which establishes the specific "Categories" of
38 uses and allocation of "Bed Tax" revenues; and

39 **WHEREAS**, the County wishes to amend the "Plan" to provide that
40 "Category H" be amended to include the payment of the debt service for bonds
41 issued to finance the construction and design and planning costs of a

1 professional sports franchise facility and a convention center and to pay the
2 operation and maintenance costs of a convention center; and

3 **WHEREAS**, the Board hereby finds and determines that the "Plan"
4 revisions set forth in this Ordinance are in the best interest of Palm Beach
5 County and Palm Beach County tourism.

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

8

9 **Section 1: Sec. 17-115. Tourist development council, (e) *Compliance with***
10 ***code of ethics***, is amended to read as follows:

11 (e) *Compliance with code of ethics*. Council members shall be governed
12 by the applicable provisions of the Palm Beach County Code of Ethics,
13 Ordinance 2009-051, as it may be amended and as codified in Article XIII,
14 Sections 2-441 through 2-448 of the Code of Laws and Ordinances

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16 **Section 2: Sec. 17-116. Tourist development plan, (b) Use and allocation of**
17 **tax revenues**, is amended to read as follows:

18 (b) Use and allocation of tax revenues: The following categories of use of
19 each individual percent of the bed tax are set forth below in Section (1) with the
20 percentage of the total amount of yearly revenue to be expended for, or credited
21 to, each category, subject to the provisions of subsection (3) of this section 17-
22 116, as set forth in subsection (2):

23 (1) Categories of use:

24 a. Category A: Promote and advertise county tourism in the state
25 and nationally and internationally, including the provision of a
26 convention and visitors bureau.

27 b. Category B: Provide for cultural and fine and non-fine arts
28 entertainment, festivals, programs, and activities which directly
29 promote county tourism.

- 1 c. Category C: Provide for beach improvement, maintenance,
2 renourishment, restoration, and erosion control with an emphasis
3 on dune restoration where possible.
- 4 d. Category D: Provide for film and television marketing and
5 development activities which directly promote county tourism.
- 6 e. Category E: Provide for special major projects and events which
7 directly further, advance, improve, promote and generate county
8 tourism: To be selected and funded pursuant to subsection (c) of
9 this section.
- 10 f. Category F: Provide for the operation and maintenance of a
11 convention center. To be funded pursuant to subsection (c) of this
12 section.
- 13 g. Category G: Attract, stimulate, market, and execute sports events
14 and activities in order to promote the county nationally and
15 internationally as a sports destination, including the financing of the
16 construction of Blum Stadium, a sports stadium, all of which
17 promote county tourism.
- 18 h. Category H:
- 19 1. Construct, extend, enlarge, remodel, repair, and/or improve
20 a convention center;
- 21 2. Debt service relating to bonds issued to finance the
22 construction of a professional sports franchise facility and a
23 convention center and the planning and design costs incurred prior
24 to the issuance of such bonds; and
- 25 3. Operation and maintenance costs of a convention center.
- 26 i. Category I:
- 27 1. Debt service relating to bonds issued to finance the
28 construction of professional sports franchise facilities and a
29 convention center; and
- 30 2. The planning and design costs incurred prior to the issuance
31 of such bonds; and

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

3 **Section 3. Repeal of Laws in Conflict:**

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

6 **Section 4. Savings Clause:**

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

12 **Section 5. Severability:**

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

17 **Section 6. Inclusion in the Code of Laws and Ordinances:**

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

22 **Section 7. Enforcement:**

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

26 **Section 8. Penalty:**

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

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1 **Section 9. Captions:**

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

5 **Section 10. Effective Date:**

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

8 **APPROVED AND ADOPTED** by the Board of County Commissioners of
9 Palm Beach County, Florida, on this the _____ day of _____, 2010.

10
11 SHARON R. BOCK, PALM BEACH COUNTY, BY ITS
12 CLERK & COMPTROLLER BOARD OF COUNTY COMMISSIONERS
13 PALM BEACH COUNTY
14

15
16 By: _____ By: _____
17 Deputy Clerk Burt Aaronson, Chair
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19
20 APPROVED AS TO FORM
21 AND LEGAL SUFFICIENCY
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23
24 By: _____
25 County Attorney
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27
28 EFFECTIVE DATE: Filed with the Department of State on the _____ day of
29 _____, 2010.

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