

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

Meeting Date: 5/19/2015

☐ Consent ☐ Regular

☒ Public Hearing

Department

Submitted By: COUNTY ATTORNEY

Submitted For: TOURIST DEVELOPMENT COUNCIL

I. EXECUTIVE BRIEF

Motion and Title: **Staff recommends motion to adopt:** An Ordinance of the Board of County Commissioners of Palm Beach County, Florida, amending section 17-116 of the Code of Laws and Ordinances; codifying the Tourist Development Ordinance of Palm Beach County, Ordinance 95-30, as amended; providing for an amendment to the tourist development plan of categories used; percentage of yearly revenue, and special allocations; 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 penalties; providing for captions; and providing for an effective date.

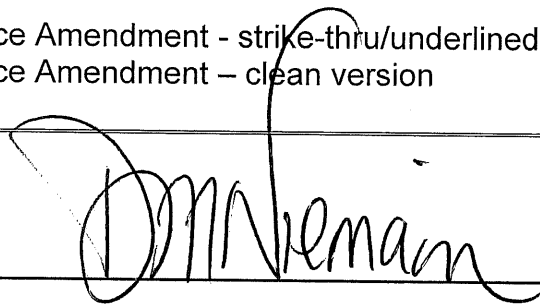
Summary: This Ordinance provides for the transfer of funds from the first (1st) percent of the bed tax and the amendment of the Tourist Development Plan which will provide for the expenditure of one (1) cent of "bed" tax revenues to be used for one or more of the authorized uses pursuant to Florida Statutes, 125.0104(5): AUTHORIZED USES OF REVENUE in Palm Beach County and a few other minor housekeeping language corrections and one correction to the Cultural Council's percentage that was a typographical error. (TDC) Countywide (DW)

Background and Policy Issues: The 6th cent allocation to Culture was incorrectly typed in the last ordinance change as 15.38 when in fact was meant to be 15.37. This change is necessary so all allocations of the 6th cent total 100%. The complete definition of Category H under the Categories of Use was omitted and has been reinserted along with other minor clerical issues.

Attachments:

1. Proposed Ordinance Amendment - strike-thru/underlined version
2. Proposed Ordinance Amendment – clean version

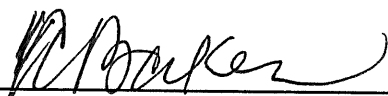
Recommended by: _____



Date

5/5/15

Approved by: _____



Date

5/13/15

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2015	2016	2017	2018	2019
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 _____

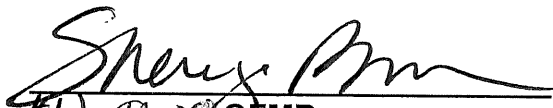
B. Recommended Sources of Funds/Summary of Fiscal Impact:

* NO FISCAL IMPACT


C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

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

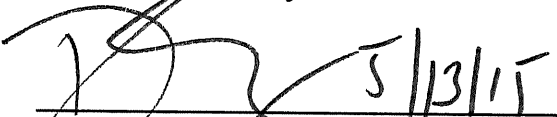


Sherry Brown, OFMB
5/6 5/6/15



Aracelis Jacobson, Contract Development and Control
5-11-15

B. Legal Sufficiency:



Assistant County Attorney
5/13/15

C. Other Department Review:

Department Director

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

ORDINANCE NO. 2015-

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING SECTION 17-116 OF THE CODE OF LAWS AND ORDINANCES; CODIFYING THE TOURIST DEVELOPMENT ORDINANCE OF PALM BEACH COUNTY, ORDINANCE 95-30, AS AMENDED; PROVIDING FOR AN AMENDMENT TO THE TOURIST DEVELOPMENT PLAN OF CATEGORIES USED; PROVIDING FOR PERCENTAGE OF YEARLY REVENUE, AND SPECIAL ALLOCATIONS; 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 PENALTIES; PROVIDING FOR CAPTIONS; 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 six (6) 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 Board desires to adjust the percentage for the Category B – Cultural Group from 15.38% to 15.37%; and

WHEREAS, an omission in a prior Ordinance amendment occurred which necessitates the addition of language regarding Category H be added back into the Ordinance.

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 shall be amended to read as follows:

Section 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, Section 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) commencing February 1, 2015:
- (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 (c) of this Section 17-116.

f. Category F: Provide for the operation and maintenance of a convention center. To be funded pursuant to Subsection (c) of this Section 17-116.

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 of which directly promote county tourism.

h. Category H:

1. Plan, design and cConstruct, extend, enlarge, remodel, repair, and/or improve a convention center and professional sports franchise facilities.

2. Debt service relating to bonds issued to finance the construction of professional sports franchise facilities and a convention center;

3. The planning and design costs incurred prior to the issuance of such bonds.

4. Operational and maintenance costs of 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.

REMAINDER OF THIS PAGE LEFT BLANK INTENTIONALLY

(2) Percent of yearly revenue is hereby amended as follows:

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	6 th percentage tax	Total 2 nd , 3 rd , 5 th and 6 th
A		16.05	16.05		20.37	52.47	35.88	48.32
B		6.89	6.89		8.73	22.51	15.38	20.72
C		7.05	7.05			14.1	31.66	18.49
D		1.2	1.2		1.52	3.92	5.47	4.31
E	See	subsection	(c) of	this	Section	17-116.		
F	See	subsection	(c) of	this	Section	17-116.		
G		2.14	2.14		2.72	7	11.62	8.16
H	100							
I				100				

REVISED

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	6 th percentage tax	Total 2 nd , 3 rd , 5 th and 6 th
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E	See	subsection	(c) of	this	Section	17-116.		
F	See	subsection	(c) of	this	Section	17-116.		
G		2.14	2.14		2.72	7	11.62	8.16
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 commencing October 1st 2014 a total of two hundred fifty thousand dollars (\$250,000) of the second, third and

fifth percent of bed tax revenues shall not be allocated for the operation and maintenance costs of a convention center (Category F), but shall be transferred to an account (Category E) which shall be reserved for special major projects and events, and a total of one hundred fifty thousand dollars (\$150,000) of the second, third and fifth percent of bed tax revenues and one hundred twenty-five thousand dollars (\$125,000) of the sixth percent of 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, Section 125.0104(5), and is consistent with the plan. The Category E reserve account shall not be limited to any amount.

a. Special allocations from the operating reserve fund of the first percent tax; Notwithstanding the allocation of the first percent of bed tax revenues to the use provided for in Category H:

b. a Six million dollars (\$6,000,000.00) An amount equal to the project budget, approved by the Board for the costs for renovation of the Airport Center Building and the relocation of the Tourist Development Council and its agencies, shall be transferred from the first (1st) percent of the bed tax fund to the capital project fund. of the operating reserve fund of the first (1st) percent of the bed tax shall be transferred into a reserve account to pay the increased costs for renovation of the Airport Center Building and the relocation of the Tourist Development Council and its agencies 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), revenues from the first percent of the bed tax shall be allocated for Category H uses.

d. Professional 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 professional sports franchise facilities and/or convention center identified in the plan(s) may be amended by resolution of the Board.

e. b. The effective date of the levy and imposition of the tax authorized under this paragraph shall be the first day of the second month following approval of the Ordinance by the Board or the first day of any subsequent month as may be specified in the Ordinance.

f. e. *Administration 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. d. *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. e. *Amendment of plan.* Except as provided in F.S. §125.0104, 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.

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 _____, 2015.

SHARON R. BOCK,
CLERK & COMPTROLLER
PALM BEACH COUNTY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Shelley Vana, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: _____
County Attorney

EFFECTIVE DATE: Filed with the Department of State on the ____ day of
_____, 2015.

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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 six (6) 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

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- (1) *Categories of use:*
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REVISED

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- a. Special allocations from the operating reserve fund of the first percent tax; Notwithstanding the allocation of the first percent of bed tax revenues to the use provided for in Category H:
- b. An amount equal to the project budget, approved by the Board for the costs for renovation of the Airport Center Building and the relocation of the Tourist Development Council and its agencies, shall be transferred from the first (1st) percent of the bed tax fund to the capital project fund.
- c. Upon fulfillment of the funding obligations set forth above in subsections (2)(a), revenues from the first percent of the bed tax shall be allocated for Category H uses.
- d. Professional 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 professional sports franchise facilities and/or convention center identified in the plan(s) may be amended by resolution of the Board.

e. The effective date of the levy and imposition of the tax authorized under this paragraph shall be the first day of the second month following approval of the Ordinance by the Board or the first day of any subsequent month as may be specified in the Ordinance.

f. *Administration 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.

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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:

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Section 4. SEVERABILITY:

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Section 5. INCLUSION IN THE CODE OF LAWS AND ORDINANCES:

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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.

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 _____, 2015.

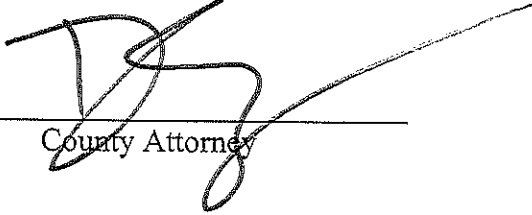
SHARON R. BOCK,
CLERK & COMPTROLLER
PALM BEACH COUNTY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Shelley Vana, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: 
County Attorney

EFFECTIVE DATE: Filed with the Department of State on the ____ day of
_____, 2015.