

REVISED

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Agenda Item #:

5C-1

Meeting Date: December 20, 2016

☐ Consent ☒ Regular
☐ Ordinance ☐ Public Hearing

Department: Office of Financial Management & Budget

I. Executive Brief

Motion and Title: Staff recommends motion to:

(A) **waive** the Board of County Commissioner policy that limits advisory board members to eleven members under Resolution No. R2013-0913; and

(B) **adopt** Resolution of the Board of County Commissioners of Palm Beach County, Florida, establishing a nineteen member Palm Beach County Infrastructure Surtax Independent Citizen Oversight Committee.

Summary: On November 8, 2016, the voters of Palm Beach County approved an infrastructure surtax plan for one cent, maximum 10 years beginning January 1, 2017 (or sooner if the surtax generates \$2.7 billion before September 1st of any year), creation of an oversight committee to audit spending for compliance with approved projects, and the following allocations: 50% to the School District, 30% to the County, and 20% to the Municipalities. The proceeds of such tax would finance the renewal and replacement of existing capital investments including roadway surfaces, bridges, drainage improvements, canals, park amenities, and government buildings, all of which were deferred during the recent recession and remain outstanding, and projects to maintain levels of service. An independent oversight committee would be established to ensure that spending is in line with the statutory requirements. The Resolution establishes the County's Infrastructure Surtax Independent Citizen Oversight Committee (Committee). The Committee will consist of the following: one member appointed by each District Commissioner; two members nominated by the Business Forum of Palm Beach County; one member nominated by the Black Chamber of Commerce of Palm Beach County; one member nominated by the Hispanic Chamber of Commerce of Palm Beach County; one member from the Economic Council of Palm Beach County; one member nominated by the Tri City Education Committee; one member nominated by the Florida Engineering Society Palm Beach Chapter; one member nominated by the Palm Beach County City Management Association; one member nominated by the Urban League of Palm Beach County; two members nominated by the Palm Beach – Treasure Coast AFL-CIO; and one member nominated by the Associated General Contractors Association Florida East Coast Chapter.

The Committee will meet monthly, or as needed, issue an annual report, may make recommendations to the Board, and ensure that the proceeds of the surtax are expended for the purposes set forth in the ballot measure and are in compliance with the County's surtax plan.

Countywide (DW)

Attachments:

1. Infrastructure Surtax Independent Citizen Oversight Committee Resolution

Recommended by:

Department Director

Date

Approved By:

County Administrator

Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT *	_____	_____	_____	_____	_____
No. ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included In Current Budget? Yes _____ No _____ (Various Budgets)
Budget Account No.: Fund _____ Department _____ Unit _____
Object _____ Reporting Category _____

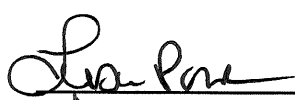
B. Recommended Sources of Funds/Summary of Fiscal Impact:


* No fiscal impact

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

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

 12/13/16
MSA
12/13/16
OFMB ET 12/9

 for Kevin Jacobowitz
Contract Dev. and Control
12/14/16 GA

B. Legal Sufficiency:

 12/14/16
Assistant County Attorney

C. Other Department Review:

Department Director

Background and Policy Issues: On July 28, 2015 and November 24, 2015, the Board discussed financing infrastructure needs and directed staff to review possible funding options and hire consultants to review projects and spending. On February 9, 2016, the Board of County Commissioners (BCC) directed staff to work with the Municipalities, School District and Cultural Council, representing cultural organizations, to develop a joint plan specific to an infrastructure surtax. Further, the Board directed staff to bring back project lists from the partners. On February 24, 2016, the League of Cities Executive Board voted to not oppose a slightly different proposal which reflected 46.5% School District, 28.5% County, 18.5% Municipalities and 6.5% Economic Development for Cultural Facilities. After further analysis and review, staff refined the proposal and the School District approved the proposal described in the motion with a deadline for approval by the BCC no later than April 15, 2016. On March 22, 2016, the Board approved an infrastructure surtax plan for one cent, maximum 10 years, creation of an oversight committee to audit spending for compliance with approved projects, and the following allocations: 48% to the School District, 27.5% to the County, 18.5% to the Municipalities, 4.5% for Economic Development through Cultural Facilities, and 1.5% for Economic Development Incentives. On May 3, 2016, the Board approved on first reading an infrastructure surtax plan for one cent, maximum 10 years beginning January 1, 2017, creation of an oversight committee to audit spending for compliance with approved projects, and the following allocations: 50% to the School District, 30% to the County, and 20% to the Municipalities. The proceeds of such tax would finance the renewal and replacement of existing capital investments including roadway surfaces, bridges, drainage improvements, canals, park amenities, and government buildings, all of which were deferred during the recent recession and remain outstanding, and projects to maintain levels of service. An independent oversight committee would be established to insure that spending is in line with the statutory requirements. On May 17, 2016, the Board approved on second reading an infrastructure surtax plan as per the ordinance on May 3rd with the addition of a sunset provision that the surtax will end if \$2.7 billion is collected before September 1st of any year. This Ordinance for one-cent infrastructure surtax included ballot language for a referendum scheduled for November 8, 2016. In addition to creating an oversight committee(s), a project manager will be hired or assigned to coordinate and monitor the program. An interlocal agreement establishing a distribution formula that would be inclusive of all proposed partners was approved by the County and the School Board at a joint meeting on May 10, 2016 and twenty-one (21) municipalities representing more than a majority, sixty-five percent (65%), of the County's incorporated population. The municipalities are: Atlantis, Belle Glade, Boynton Beach, Briny Breezes, Delray Beach, Greenacres, Haverhill, Highland Beach, Jupiter Inlet Colony, Lake Clarke Shores, Lake Park, Lake Worth, Lantana, Loxahatchee Groves, Pahokee, Palm Springs, Royal Palm Beach, South Bay, South Palm Beach, Wellington and West Palm Beach. The local discretionary sales surtaxes apply to all transactions subject to the state tax imposed on sales, use, services, rentals, admissions, and other authorized transactions.

The surtax applies to the first \$5,000 of any single taxable tangible personal property item. Items such as groceries, baby food, baby formula, and medicines are exempt from sales tax. Levying this surtax will partially shift the funding responsibility to visitors; about 25% of sales tax in Palm Beach County is paid by visitors, as opposed to funding infrastructure backlog through property taxes.

Florida's Department of Revenue (DOR) will distribute the surtax directly to the School District, each Municipality, and the County.

RESOLUTION NO. R-2016-

**RESOLUTION OF THE BOARD OF COUNTY
COMMISSIONERS OF PALM BEACH COUNTY,
FLORIDA, ESTABLISHING THE PALM BEACH COUNTY
INFRASTRUCTURE SURTAX INDEPENDENT CITIZEN
OVERSIGHT COMMITTEE.**

WHEREAS, pursuant to section 212.055(2), Florida Statutes, Palm Beach County adopted Ordinance 2016-032 which authorized a countywide referendum for a Local Government Infrastructure Surtax of one percent (1%) on all authorized taxable transactions occurring within Palm Beach County; and

WHEREAS, monies received from the Local Government Infrastructure Surtax may be utilized by the County, municipalities of the County, and the School Board of Palm Beach County to finance, plan, construct, renovate and improve needed infrastructure; and

WHEREAS, the Board of County Commissioners ("Board") will adopt a Surtax Plan for use of the County's portion of the Surtax proceeds; and

WHEREAS, funds pursuant to the Surtax shall be used to equip, construct and repair roads, bridges, signals, streetlights, sidewalks, parks, drainage, shoreline and wastewater infrastructure, recreational and governmental facilities; and purchase public safety vehicles and equipment; and

WHEREAS, Palm Beach County Ordinance 2016-032 also requires the creation of an independent citizen oversight committee; and

WHEREAS, there is hereby established an oversight committee to be known as the "Palm Beach County Infrastructure Surtax Independent Citizen Oversight Committee" ("Committee") which shall serve as an advisory and reporting body to the Board.

I. Establishment

1. There is hereby established, an oversight committee to be known as the "Palm Beach County Infrastructure Surtax Independent Citizen Oversight Committee" ("Committee").
2. The Committee will meet monthly, or as needed, to oversee the Surtax Plan.
3. The Committee will issue an annual report.

II. Membership Composition

Membership Composition shall consist of nineteen (19) members who shall be appointed by the Board including:

- a. One (1) representative appointed by each District Commissioner;
- b. One (1) representative nominated by the Black Chamber of Commerce of Palm Beach County;
- c. One (1) representative nominated by the Hispanic Chamber of Commerce of Palm Beach County;
- d. Two (2) representatives nominated by the Business Forum of Palm Beach County;
- e. One (1) representative nominated by the Tri City Education Committee;
- f. One (1) representative nominated by the Florida Engineering Society Palm Beach Chapter;
- g. One (1) representative nominated by the Urban League of Palm Beach County;
- h. One (1) representative nominated by the Palm Beach County City Management Association;
- i. One (1) representative nominated by the Economic Council of Palm Beach County; and
- j. One (1) representative nominated by the Associated General Contractors Association Florida East Coast Chapter.
- k. Two (2) representatives nominated by the Palm Beach Treasure Coast AFL-CIO.

III. Terms and Conditions of Membership

All members of the Committee shall be electors of the County at the time of appointment and while serving on the Committee. The members of the Committee shall serve for terms of three (3) years. Members of the Committee may be reappointed, provided they continue to meet the qualifications of membership, and may be removed with or without cause in the same manner as is presently set forth

by resolution for the appointment of such members. A vacancy on the Committee not occurring by expiration of terms shall be filled by the Board for the unexpired term in the same manner as is presently set forth by resolution for appointments to the Committee. Committee members shall receive no compensation for the performance of their duties.

IV. Removal for Lack of Attendance

Members of the Committee shall be automatically removed for lack of attendance. Lack of attendance means failure to attend three (3) consecutive meetings or failure to attend at least two-thirds of the regularly scheduled meetings during a calendar year. Participation for less than three-fourths of a meeting shall be the same as a failure to attend a meeting. Absences shall be entered into the minutes at the next regularly scheduled meeting of the Committee. Members removed under this paragraph shall not continue to serve until a new appointment is made and removal shall create a vacancy.

V. Notice of Meetings

Reasonable public notice of all Committee meetings shall be provided and all such meetings shall be open to the public at all times.

VI. Compliance with Applicable Law

The Committee, their members, and all their proceedings shall be governed by and comply with the applicable provisions of the Florida Sunshine Law, Chapter 286, Florida Statutes, Florida Public Records Law, Chapter 119, Florida Statutes, the Florida Ethics Code, Chapter 112, Florida Statutes, the Palm Beach County Code of Ethics, Ordinance 2009-051, as it may be amended and as codified in Article XIII, Sections 2-441 through 2-448 of the Code of Laws and Ordinances and all other applicable local or state statutes, ordinances, or rules.

VII. Quorum

A quorum must be present for the conduct of all Committee meetings. Forty percent (40%) of the members appointed shall constitute a quorum. All meetings shall be governed by Robert's Rules of Order.

VIII. Responsibilities of the Committee

The Committee shall, from time to time provide oversight and review

expenditure reports produced by the County to:

- a. Determine whether one hundred percent (100%) of proceeds are expended only for the purposes set forth in the ballot measure; and
- b. Determine whether expenditures are in compliance with the County’s Surtax Plan; and
- c. Make annual reports to the Board and County Administrator, which shall include, but not be limited to a statement indicating whether the County is in compliance with the requirements of the ballot measure and a summary of the Committee’s proceedings and activities.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that the Palm Beach County Infrastructure Surtax Independent Citizen Oversight Committee is hereby established.

The foregoing Resolution was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____, and upon being put to a vote, the vote was as follows:

- Commissioner Paulette Burdick, Mayor -
- Commissioner Melissa McKinlay, Vice Mayor -
- Commissioner Hal R. Valeche -
- Commissioner Dave Kerner -
- Commissioner Steven L. Abrams -
- Commissioner Mary Lou Berger -
- Commissioner Mack Bernard -

The Mayor thereupon declared the Resolution duly passed and adopted this _____ day of _____, 2016.

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

SHARON R. BOCK, CLERK & COMPTROLLER

By: _____
Deputy Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: Anne Delmont
County Attorney