

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY

Agenda Item #:

6E-1  
ADD-ON

Meeting Date: August 15, 2006       Consent       Regular

Department       Public Hearing

Submitted By: TOURIST DEVELOPMENT COUNCIL

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 September 12, 2006, 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; CODIFYING THE TOURIST DEVELOPMENT ORDINANCE OF PALM BEACH COUNTY, ORDINANCE 95-30, AS AMENDED; PROVIDING FOR THE LEVY OF A FIFTH CENT OF TOURIST DEVELOPMENT TAXES; PROVIDING FOR THE AMENDMENT OF THE TOURIST DEVELOPMENT PLAN TO INCLUDE THE EXPENDITURE OF REVENUES TO IMPROVE, ENLARGE, AND EXTEND A 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.

**Summary:** This Ordinance provides for the levy of a fifth (5th) cent Tourist Development Tax and the amendment of the Tourist Development Plan which will provide for the expenditure of one (1) cent of "bed" tax revenues for improvements to the Convention Center. Countywide (MC)

**Background and Policy Issues:** Palm Beach County currently levies four cents in Tourist Development Taxes ("bed taxes"). The allocation of those revenues is set out in the Tourist Development Plan (the "Plan"). Chapter 125.0104, F.S., "The Local Option Tourist Development Act," authorizes the County to levy an additional one cent ("fifth cent") and to provide for the allocation of those new revenues by amending the "Plan" with an ordinance amendment approved by a super majority of the Board.

The County wishes to finance improvements for the Palm Beach County Convention Center with "bed taxes". Although the "fifth cent" may not be used for that purpose, the first three cents may be spent on those improvements. At the same time tourism promotion is an authorized use of the "fifth cent"; the County currently spends over 52% of the first three cents on the promotion of Palm Beach County under Category A. Therefore, to accomplish its goal of allocating one cent for Convention Center improvements, the County will levy the "fifth cent" and reallocate "bed tax" revenues to provide for expenditures in accordance with their legally authorized use. Specifically, the "Plan" would be amended as follows: (1) deduct one cent of the first three cents currently allocated to tourism promotion; (2) allocate the full "fifth cent" to tourism promotion; and (3) allocate one cent of the first three cents to improve, enlarge, extend and/or remodel the Convention Center.

(Continued on page 3)

**Attachments:**

1. Proposed Ordinance

Recommended by:

  
Department Director

8/12/06  
Date

Approved by:

  
Deputy County Administrator

8/14/06  
Date

**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

Fiscal Years	2007	2008	2009	2010	2011
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	(5,971,905)	(6,270,500)	(6,584,025)	(6,913,227)	(7,258,888)
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
<b>NET FISCAL IMPACT</b>	<b>(5,971,905)</b>	<b>(6,270,500)</b>	<b>(6,584,025)</b>	<b>(6,913,227)</b>	<b>(7,258,888)</b>
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes \_\_\_\_\_ No X

Budget Account No.: Fund \_\_\_\_\_ Dept. \_\_\_\_\_ Unit \_\_\_\_\_ Object \_\_\_\_\_

Reporting Category \_\_\_\_\_

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

The additional one cent will be used for construction, extension, repairs and various other improvements to the convention center.

C. Departmental Fiscal Review: Beverly Reid for Ernie Pena-Roque

**III. REVIEW COMMENTS**

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

[Signature] 8-10-06  
OFMB  
8/9/06 CN 08/09/06

[Signature] 8/11/06  
Contract Dev. and Control  
8/11/06

**B. Legal Sufficiency:**

[Signature]  
Assistant County Attorney

**C. Other Department Review:**

\_\_\_\_\_  
Department Director

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

This ordinance amendment provides for the levy of the "fifth cent" and the above described amendment to the Tourist Development Plan. The only net change in expenditures is for Convention Center improvements. All current "uses" remain at the same level of funding. The levy and reallocation were reviewed by the Tourist Development Council on June 9, 2006 which voted to recommend approval.

At the April 18, 2006 Board of County Commissioners meeting, the BCC directed staff to develop this ordinance amendment to put the fifth cent in place. The TDC was informed of this direction at their May 11<sup>th</sup> meeting. At the June 9<sup>th</sup> meeting, the TDC was again advised of this direction, and shown the latest architectural drawings of the proposed Convention Center parking garage and valet tunnel.

In early July, 2006, the Executive Director of the TDC contacted the Executive Director of the P.B.C. League of Cities for input from their members. The TDC Executive Director also personally appeared and asked for comment at the July 26<sup>th</sup> annual membership meeting of the League. No official response has been received from the League of Cities as of 8/2/06.

On July 31<sup>st</sup>, the Director provided the draft ordinance and agenda item to the P.B.C. Economic Council at their request. As of 8/2/06, no comments have been received from the Council.

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1   ORDINANCE NO. 2006-

2                         AN ORDINANCE OF THE BOARD OF COUNTY  
3                         COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA,  
4                         AMENDING SECTIONS 17-113 AND 17-116 OF THE CODE  
5                         OF LAWS AND ORDINANCES; CODIFYING THE  
6                         TOURIST DEVELOPMENT ORDINANCE OF PALM  
7                         BEACH COUNTY, ORDINANCE 95-30, AS AMENDED;  
8                         PROVIDING FOR THE LEVY OF A FIFTH CENT OF  
9                         TOURIST DEVELOPMENT TAXES; PROVIDING FOR AN  
10                        AMENDMENT TO THE TOURIST DEVELOPMENT PLAN  
11                        TO INCLUDE THE EXPENDITURE OF REVENUES TO  
12                        EXTEND, ENLARGE AND IMPROVE A CONVENTION  
13                        CENTER; PROVIDING FOR REPEAL OF LAWS IN  
14                        CONFLICT; PROVIDING FOR SEVERABILITY;  
15                        PROVIDING FOR INCLUSION IN THE CODE OF LAWS  
16                        AND ORDINANCES; PROVIDING FOR ENFORCEMENT;  
17                        PROVIDING FOR APPLICABILITY; AND PROVIDING  
18                        FOR AN EFFECTIVE DATE.

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

26                    **WHEREAS**, pursuant to the authority established in that statute, the Board enacted  
27                    Ordinance 95-30 which has been amended from time to time and codified in Sections 17-113  
28                    through 17-116 of the Code of Laws and Ordinances relating to the Palm Beach County  
29                    Government (hereinafter "Ordinance"), which levied a four (4) percent tourist development tax  
30                    (also known as the "bed tax") for certain permissible uses as set forth in the statute; and

31                    **WHEREAS**, the Ordinance established a Tourist Development Plan (hereinafter "Plan")  
32                    which sets forth the specific uses and allocation of the revenues of the "bed tax"; and  
33                    

34                    **WHEREAS**, the statute at subsection (3)(n) authorizes the Board to levy an additional one  
35                    percent (1%) tourist development tax; and

1           **WHEREAS**, the Board now wishes to exercise the authority granted in the statute to levy  
2 an additional one (1) percent "bed tax" for a total of five percent (5%) tourist development tax  
3 within the boundaries of Palm Beach County ; and

4           **WHEREAS**, the Board also wishes to amend the Plan to provide for additional funding to  
5 extend, enlarge and improve a convention center pursuant to Section 125.0104 (5)(a); and

6           **WHEREAS**, the Board hereby finds and determines that the levy of the additional one  
7 percent (1%) in "bed taxes" and the revisions to the Plan will advance, further and promote Palm  
8 Beach County tourism.

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

11 **Section 1.** : Section 17-113. Levy of Tourist Development Tax is amended to read as follows:

12           **Section 17-113. Levy of tourist development tax.**

13           (a) The levy and imposition of the tourist development tax (hereinafter the "tax")  
14 throughout Palm Beach County, Florida, is hereby reestablished and reenacted herein at a rate of  
15 one (1) percent which commenced on the first day of the month following approval of the  
16 referendum held September 7, 1982; which increased to two (2) percent on January 1, 1984; to  
17 three (3) percent on February 1989; ~~and~~ to four (4) percent on January 1, 1994; and to five (5)  
18 percent on October 1, 2006, of each whole and major fraction of each dollar of the total rental  
19 charged every person who rents, leases, or lets for consideration any living quarters or  
20 accommodations in any hotel, apartment hotel, motel, resort motel, apartment, apartment motel,  
21 roominghouse, mobile home park, recreational vehicle park, or condominium for a term of six (6)  
22 months or less, unless such person rents, leases, or lets for consideration any living quarters or  
23 accommodations which are exempt according to the provisions of Chapter 212, Florida Statutes.  
24 When receipt of consideration is by way of property other than money, the tax shall be levied and  
25 imposed on the fair market value of such nonmonetary consideration.

26           (b) The tax shall be in addition to any other tax imposed pursuant to Florida Statutes,  
27 Chapter 212, and in addition to all other taxes and fees and the consideration for the rental or lease.

1 (c) The tax shall be charged by the person receiving the consideration for the lease or  
2 rental, and it shall be collected from the lessee, tenant, or customer at the time of payment of the  
3 consideration for such lease or rental. (Ord. No. 95-30, § 3, 8-15-95)

4 **Section 2.** Section 17-116. Tourist Development Plan shall be amended to read as follows:

5 **Section 17-116. Tourist development plan.**

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

8 *Palm Beach County Tourist Development Plan*

9 (a) *Purpose.* Pursuant to the provisions of the Local Option Tourist Development Act,  
10 this tourist development plan (hereinafter the "plan") establishes the uses of the tax  
11 revenue by specific project or special use as authorized in Florida Statutes, Section  
12 125.0104. The plan also includes the expense allocation by percentage for each  
13 specific project or special use.

14 (b) *Use and allocation of tax revenues:* The following categories of use of each  
15 individual percent of the bed tax are set forth below in subsection (1) with the  
16 percentage of the total amount of yearly revenue to be expended for, or credited to,  
17 each category, subject to the provisions of subsection (c) of this Section 17-116, set  
18 forth in subsection (2) commencing October 1, 2006:

- 19 (1) a. Category A: Promote and advertise county tourism in the state and nationally  
20 and internationally, including the provisions of a convention and visitors bureau.
- 21 b. Category B: Provide Cultural and fine and non-fine arts entertainment, festivals,  
22 programs, and activities which directly promote county tourism.
- 23 c. Category C: Provide beach improvement, maintenance, renourishment,  
24 restoration and erosion control with an emphasis on dune restoration where  
25 possible.

- 1 d. Category D: Provide for film and television marketing and development  
 2 activities which directly promote county tourism.
- 3 e. Category E: Provide for major special projects and events which directly further,  
 4 advance, improve, promote and generate county tourism. To be selected and  
 5 funded pursuant to Subsection (c) of this Section 17-116.
- 6 f. Category F: Provide for the operation and maintenance of a convention center.  
 7 To be funded pursuant to Subsection (c) of this Section 17-116.
- 8 g. Category G: Attract, stimulate, market and execute sports events and activities in  
 9 order to promote the county nationally and internationally as a sports destination,  
 10 including the financing of the construction of Blum Stadium, a sports stadium,  
 11 all of which directly promotes county tourism.
- 12 h. Category H: Construct, extend, enlarge, remodel, repair, and/or improve a  
 13 convention center.
- 14 i. Category I: Provide payment on debt service relating to bonds issued to finance  
 15 the construction of professional sports franchise facilities and convention center,  
 16 and the operation and maintenance cost of a convention center for 10 years.

17 (2)

18

Category	1 <sup>st</sup> percentage tax	2 <sup>nd</sup> percentage tax	3 <sup>rd</sup> percentage tax	4 <sup>th</sup> percentage tax	5 <sup>th</sup> percentage tax	Total 2 <sup>nd</sup> , 3 <sup>rd</sup> and 5 <sup>th</sup>
19 A		16.05	16.05		20.37	52.47
20 B		6.89	6.89		8.73	22.51
21 C		7.05	7.05			14.10
22 D		1.20	1.20		1.52	3.92
23 E	See	subsection	(c) of	this	Section	17-116.
24 F	See	subsection	(c) of	this	Section	17-116.
25 G		2.14	2.14		2.72	7.00
26 H	100					
27 I				100		

1 (c) *Reserve for convention center operations and maintenance and special major*  
2 *projects and events.* Notwithstanding the percentages allocating the bed tax revenues to  
3 the various categories of uses as set forth above in subsection (b), each year two  
4 hundred fifty thousand dollars (\$250,000.) of the second, third and fifth percent of bed  
5 tax revenues shall be transferred into an account which shall be reserved for the  
6 operation and maintenance of a convention center (Category F) and one hundred fifty  
7 thousand dollars (\$150,000.) of the second, third and fifth percent of bed tax revenues  
8 shall be transferred into an account (Category E) which shall be reserved for special  
9 major projects and events which may arise from time to time offering the county the  
10 opportunity to further, advance, improve, promote and generate county tourism. The  
11 TCD shall review such projects to ensure that the expenditures of such funds are  
12 authorized under Florida Statutes, Section 125.0104(5), and is consistent with the plan.  
13 The Category E reserve account shall not exceed one million dollars (\$1,000,000.). In  
14 the event the account balance does exceed one million dollars (\$1,000,000.), the excess  
15 revenues shall revert to Categories A, B, C, D, and G in the percentages allocated in  
16 subsection (b).

17 (d) The facilities and/or convention center identified in the plan to benefit from the  
18 levy of the first and fourth percent tax must be approved and may be amended by  
19 resolution of the Board. The levy of the fourth percent tax shall automatically expire  
20 upon the retirement of all bonds issued to pay the debt service for the financing of a  
21 professional sports franchise facility and/or convention center.

22 **Section 3. REPEAL OF LAWS IN CONFLICT:**

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

25 **Section 4. SAVINGS CLAUSE:**

26 Notwithstanding anything to the contrary, all provisions of Palm Beach County Code  
27 Section 17.111 through 17.116, codifying Palm Beach County Ordinance No. 95-30, as  
28 amended, are specifically preserved and remain in full force and effect for the limited purpose



1 of enforcing any alleged violations of said Code which occurred prior to its repeal or  
2 amendment.

3 **Section 5. SEVERABILITY:**

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

7 **Section 6. INCLUSION IN THE CODE OF LAWS AND ORDINANCES:**

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

12 **Section 7. ENFORCEMENT:**

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

16 **Section 8. PENALTY:**

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

18 **Section 9. CAPTIONS:**

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

22 (Remainder of page intentionally left blank.)

1                    **Section 10. EFFECTIVE DATE:**

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

4                    APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach  
5                    County, Florida, on this the \_\_\_\_\_ day of \_\_\_\_\_, 2006.

6  
7                    SHARON R. BOCK,  
8                    CLERK & COMPTROLLER  
9                    PALM BEACH COUNTY

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

10                    By: \_\_\_\_\_  
11                    Deputy Clerk

By: \_\_\_\_\_  
Tony Masilotti, Chairman

12                    APPROVED AS TO FORM AND  
13                    LEGAL SUFFICIENCY  
14

15                    By: \_\_\_\_\_  
16                    County Attorney

17                    EFFECTIVE DATE: Filed with the Department of State on the \_\_\_\_ day of  
18                    \_\_\_\_\_, 2006.

2007	5,971,905	5.00%
2008	6,270,500	
2009	6,584,025	
2010	6,913,227	
2011	7,258,888	

A fifth cent levy will provide for