

Agenda Item #: **5A**

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

Meeting Date: September 12, 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 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 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, effective December 1, 2006, 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: On August 15, 2006, this Ordinance was approved by the Board of County Commissioners on preliminary reading and has been advertised in accordance with Florida Statutes. 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. 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	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)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	(5,971,905)	(6,270,500)	(6,584,025)	(6,913,227)	(7,258,888)
# 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: Est. Base Review

III. REVIEW COMMENTS

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

John D. Smith 8/29/06
OFMB CW 08/28/06
8/29/06

Dr. S. Joseph 9/1/06
Contract Dev. and Control 9/1/06

B. Legal Sufficiency:

Maureen Cullen 9/5/06
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 11th meeting. At the June 9th 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 26th annual membership meeting of the League. No official response has been received from the League of Cities as of 8/2/06.

On July 31st, 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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ORDINANCE NO. 2006-

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING SECTIONS 17-113 AND 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 AN AMENDMENT TO THE TOURIST DEVELOPMENT PLAN TO INCLUDE THE EXPENDITURE OF REVENUES TO EXTEND, ENLARGE AND IMPROVE 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.

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 four (4) 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 statute at subsection (3)(n) authorizes the Board to levy an additional one 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 December 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.

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

Section 2. 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. The plan also includes the expense allocation by percentage for each specific project or special use.

~~(b) *Use and allocation of initial three (3) percent tax.* The following categories of use of the initial three (3) percent tax are hereby set forth together with the percentage of the total amount of yearly revenues to be expended for, or credited to, each category, subject to the provisions of subsection (c) of this section 17-116, commencing October 1, 2004:~~

(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 (c) of this Section 17-116, set forth in subsection (2) commencing December 1, 2006:

<u>(1) Categories of Use:</u>	<u>Percentage</u>
(1) <u>a.</u> Category A: Promote and advertise county tourism in the state and nationally and internationally, including the provisions of a convention and visitors bureau and tourist information center.	<u>52.47</u>

1	(2) <u>b.</u>	Category B: Provide Cultural and fine and non-	
2		fine arts entertainment, festivals, programs, and	
3		activities which directly promote county tourism.	22.51
4	(3) <u>c.</u>	Category C: Provide beach improvement,	
5		maintenance, renourishment, restoration and	
6		erosion control with an emphasis on dune	
7		restoration where possible.	14.1
8	(4) <u>d.</u>	Category D: Provide for film and television	
9		marketing and development activities which	
10		directly promote county tourism.	3.92
11	(5) <u>e.</u>	Category E: Provide for special major projects and	
12		events which directly further, advance, improve,	
13		<u>promote</u> and generate county tourism. To be	
14		selected and funded pursuant to <u>paragraph</u>	
15		<u>subsection</u> (c) of this section 17-116.	
16	(6) <u>f.</u>	Category F: Provide for the operation and	
17		maintenance of a convention center. To be funded	
18		pursuant to <u>subsection</u> (c) of this section.	
19	(7) <u>g.</u>	Category G: Attract, stimulate, market and execute	
20		sports events and activities in order to promote the	
21		county nationally and internationally as a sports	
22		destination, including the financing of the	
23		construction of Blum Stadium, a sports stadium,	
24		all of which directly promotes county tourism.	7
25	<u>h.</u>	<u>Category H: Construct, extend, enlarge, remodel,</u>	
26		<u>repair, and/or improve a convention center.</u>	
27	<u>i.</u>	<u>Category I: Provide payment on (1) debt service</u>	
28		<u>relating to bonds issued to finance the construction</u>	
29		<u>of professional sports franchise facilities and a</u>	
30		<u>convention center, (2) for the planning and design</u>	

costs incurred prior to the issuance of such bonds,
 and (3) for the operation and maintenance cost of a
 convention center for 10 years.

(2) *Percent of Yearly Revenue:*

Category	<u>1st</u> <u>percentage</u> <u>tax</u>	<u>2nd</u> <u>percentage</u> <u>tax</u>	<u>3rd</u> <u>percentage</u> <u>tax</u>	<u>4th</u> <u>percentage</u> <u>tax</u>	<u>5th</u> <u>percentage</u> <u>tax</u>	<u>Total 2nd</u> <u>3rd and 5th</u>
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) of	this	Section	17-116.
F	See	subsection	(c) of	this	Section	17-116.
G		2.14	2.14		2.72	7.00
H	100					
I				100		

(c) *Reserve for convention center operations and maintenance and special major projects and events.* Notwithstanding the percentages allocating the bed tax revenues to the various categories of uses as set forth above in subsection (b), each year two hundred fifty thousand dollars (\$250,000.) of the ~~initial first three~~ second, third and fifth percent of bed tax revenues shall be transferred into an account which shall be reserved for the operation and maintenance of a convention center (Category F) and one hundred fifty thousand dollars (\$150,000.) of the ~~initial first three~~ second, third and fifth 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 TCD shall review such projects to ensure that the expenditures of such funds are authorized under Florida Statutes, Section 125.0104(5), and is consistent with the plan. The Category E reserve account shall not exceed one million dollars (\$1,000,000.). In the event the account balance does exceed one million dollars

1 (\$1,000,000.), the excess revenues shall revert to Categories A, B, C, D, and G in the
2 percentages allocated in subsection (b).

3 ~~(d) Use of additional one (1) percent tax. The additional one (1) percent tax effective~~
4 ~~January 1, 1994, shall be used to pay:~~

5 ~~(1) The debt service on bonds issued to finance the construction;~~
6 ~~reconstruction, or renovation of professional sports franchise facilities~~
7 ~~and to pay the planning and design costs of said facilities incurred prior~~
8 ~~to the issuance of such bonds.~~

9 ~~(2) The debt service on bonds issued to finance the construction;~~
10 ~~reconstruction, or renovation of a convention center, and to pay the~~
11 ~~planning and design costs incurred prior to the issuance of such bonds.~~

12 ~~(3) The operation and maintenance costs of a convention center for a period~~
13 ~~of ten (10) years.~~

14 (d) Sports Franchise Facilities and Convention Center

15 A tourist development plan for professional sports franchise facilities and/or a
16 convention center must be approved by resolution of the board for the purpose of advancing,
17 promoting, and furthering county tourism. The facilities and/or convention center identified in
18 the plan(s) ~~to benefit from the levy of the additional one (1) percent tax~~ may be amended by
19 resolution of the board. ~~This additional levy~~ The levy of the fourth cent shall automatically
20 expire upon the retirement of all bonds issued to pay the debt service for the financing of a
21 professional sports franchise facilities and/or the convention center.

22 ~~(e) Tourist information center. A portion of the revenues allocated to Categories A,~~
23 ~~B, D, and G under subparagraph (b) of this section shall be used to fund the~~
24 ~~construction and operation of a tourist information center as established and~~
25 ~~approved through the annual budget.~~

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

1 ~~(g)~~ (f) *Administrative expenses.* There shall be an annual amount established for
2 administrative expenses which shall not exceed nine (9) percent of the total Tourist
3 Development Trust Fund budget. Administrative expenses shall include administrative
4 staff salaries, benefits, administrative travel, indirect costs, and all costs of furnishing
5 and operating administrative offices whether paid directly or by reimbursement, except
6 that funds for contractual services from the administrative budget may be expended
7 upon the express approval of the council.

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

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

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

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

19 **Section 4. SAVINGS CLAUSE:**

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

1 **Section 5. SEVERABILITY:**

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

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

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

10 **Section 7. ENFORCEMENT:**

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

14 **Section 8. PENALTY:**

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

16 **Section 9. CAPTIONS:**

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

20 (Remainder of page intentionally left blank.)

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Section 10. EFFECTIVE DATE:

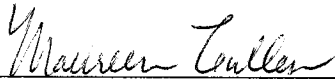
The provisions of this Ordinance shall become effective upon filing with the
Department of State.

APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach
County, Florida, on this the _____ day of _____, 2006.

SHARON R. BOCK, CLERK & COMPTROLLER PALM BEACH COUNTY	PALM BEACH COUNTY, FLORIDA, BY ITS BOARD OF COUNTY COMMISSIONERS
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By: _____ Deputy Clerk	By: _____ Tony Masilotti, Chairman
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APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: 
County Attorney

EFFECTIVE DATE: Filed with the Department of State on the ____ day of
_____, 2006.

FLORIDA COUNTY ORDINANCE DATA RETRIEVAL SYSTEM (CODRS) CODING FORM

Instructions: Florida's Department of State, Bureau of Administrative Code has developed the County Ordinance Data Retrieval System (CODRS) to facilitate the tracking of County ordinances in Florida's 67 Counties. CODRS' data base is composed of over 25,000 county ordinances enacted since 1974.

We request your cooperation in completing this coding form. It is to be completed whenever your county enacts a new ordinance. Simply complete this form and include it with other pertinent ordinance information that is submitted to the Bureau of Administrative Code.

To code this form properly, please refer to the "keyfields" description sheet that has been given to your County Attorney's Office. If you do not have this sheet please contact the Bureau. We will be happy to fax one to you for referencing purposes. Please fill out this form as completely as is possible.

Thank you for your assistance. Should you need further assistance please contact the Bureau of Administrative Code, Department of State at (850)245-6270 or Suncom 205-6270.

COUNTY: (Palm Beach) COUNTY ORDINANCE # (2006 -)
(e.g., 00-001)

PRIMARY KEYFIELD
DESCRIPTOR: (Tourism Tax)

SECONDARY KEYFIELD
DESCRIPTOR: (Tourism)

OTHER KEYFIELD
DESCRIPTOR: ()

ORDINANCE DESCRIPTION: (Tourism Tax Development)
(25 characters maximum including spaces)

ORDINANCES AMENDED: (List below the ordinances that are amended by this legislation. If more than two, list the most recent two.)

AMENDMENT # 1: (2005-008) AMENDMENT # 2: (2004-007)

ORDINANCES REPEALED: (List below the ordinances that are repealed by this legislation.)

REPEAL # 1: () REPEAL # 3: ()

REPEAL # 2: () REPEAL # 4: ()

(Others repealed: List all that apply: _____)

(FOR OFFICE USE ONLY):

COUNTY CODE NUMBER: ()

KEYFIELD 1 CODE: ()

KEYFIELD 2 CODE: ()

KEYFIELD 3 CODE: ()

Rev. 4/10/04