



AGENDA REPORT
May 7, 2019

Legislative Intent and Permission to Advertise, Re: Tourism Tax Budget Plan

SUBJECT:

Legislative Intent and Permission to Advertise, Re: Tourism Tax Budget Plan to lower match requirements for Tourism funded Indian River Lagoon grants and amend Section 102-119.

FISCAL IMPACT:

No impact to Tourism Development Tax Revenue

DEPT/OFFICE:

Tourism Development

REQUESTED ACTION:

Staff is seeking legislative intent and permission to advertise a Public Hearing for amendments to the County's Tourist Development Tax Budget Plan, Section 102-119, Brevard County Code, regarding Indian River Lagoon grant funding; and either updating the anticipated net revenue figures or deleting the language altogether.

SUMMARY EXPLANATION and BACKGROUND:

Requested Action Item One: Pursuant to Section 102-119, Brevard County Code, Tourist Development Tax funding, up to a million dollars, may be allocated to lagoon or estuary projects if projects over \$50,000.00 have a three to 1 (3:1) match. On April 24, 2019, the Tourist Development Council voted to recommend to the Brevard County Board of County Commissioners that the grant guidelines only require a two to 1 (2:1) match, and to drop the requirement that the matching funds be from a non-county source. This request for legislative intent to change Section 102-119(4)(a) follows.

Requested Action Item Two: Additionally, the Tourist Development Office requests legislative intent on whether the Board would like to have an amended Section 102-119 brought back for public hearing that (a) either updates the anticipated net revenue figures, or (b) lists the percentages of tax allocation to the tourist development tax categories, without stating "estimated to be [insert dollar figure] for the 24 months following the passage of this section." Currently, the budgetary section becomes out of date every two years, as tourist development tax anticipated revenue changes. For example, the current

codes states the anticipated net revenue from the tourist development tax to be derived by the County for the 24-month period beginning on the date of the levy is estimated to be approximately \$11,789,311.00. In fact, the 24 month projection for FY 2020 and FY 2021 is estimated to be \$31-\$32 million. Thus, the code section should be updated.

Alternately, it may be possible to amend the section to remove the estimated net revenue figures that are going out of date every two years. Although section 125.0104, Florida Statutes does state that prior to enactment of the ordinance levying and imposing the tax, tourist development tax plans have to include these type of anticipated net revenue figures for the 24 months following the levy of the tax, a review of other counties seems to indicate that many do not continue to list the detailed 24 month anticipated net revenue figures that our code contains.

The Tourist Development Office would like to work with the County Attorney's office to determine if the Budget Plan can be legally amended in a manner that does not require updating specific line items every two years as the budget revenue changes. If so, the Tourist Development Office would bring the proposal to the Tourist Development Council and if they agree, forward it to the Board of County Commissioners for consideration at a public hearing, after presenting it to the Tourist Development Council. Alternately, the Tourist Development Office requests permission to bring an amended Section 102-119 back for public hearing with the anticipated net revenue figures updated.

By state law and county code, substantial amendments to Section 102-119 of the Brevard County Code require a super-majority vote.

ATTACHMENTS:

Description

- **Sect 102-119 Proposed TDT Budget Change to Grant Match**
- **Sec 102-119 Propose change to net revenue**



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May 8, 2019

MEMORANDUM

TO: Peter Cranis, Tourism Development Director

RE: Item J.6., Legislative Intent and Permission to Advertise for Tourism Tax Budget Plan

The Board of County Commissioners, in regular session on May 7, 2019, approved legislative intent and granted permission to advertise for a public hearing for amendments to the County's Tourism Development Tax Budget Plan, Section 102-119, Brevard County Code, regarding Indian River Lagoon grant funding, and either updating the anticipated net revenue figures, or deleting the language altogether.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe

Tammy Rowe, Deputy Clerk

/cmw

cc: County Attorney

Sec. 102-119. - Budget plan.

The board of county commissioners hereby adopts the following plan of the advisory tourist development council for tourist development:

- (1) Under the provisions of, and pursuant to, the Act, a two-percent tax is levied and imposed throughout the county beginning on the first day of the month following elector approval of this article and its tourist development tax by referendum as provided by this article.
- (2) The anticipated net revenue from the tourist development tax to be derived by the county for the 24-month period beginning on the date of levy is estimated to be approximately \$11,789,311.00.
- (3) The proposed uses of the tax revenue, generated pursuant to F.S. § 125.0104(3)(c), in order of priority, by special use category, shall be allocated as follows:
 - a. At least 25 percent of the net revenue, estimated to be \$2,947,328.00 for the 24 months following the passage of this section, would be budgeted and disbursed to promote and advertise county tourism in the state, nationally and internationally; however, if tax revenues are expended for an activity, service, venue, or event, the activity, service, venue, or event must have as one of its main purposes the attraction of tourists as evidenced by the promotion of the activity, service, venue, or event to tourists.
 - b. Thirty percent of the net revenue, estimated to be \$3,536,793.00 for the 24 months following the passage of this section, would be budgeted and disbursed to finance beach park facilities or beach improvement, maintenance, renourishment and erosion control.
 - c. Up to 35 percent of the net revenue, estimated to be \$4,126,259.00 for the 24 months following the passage of this section, in accordance with F.S. § 125.0104(5)(a)1. and (5)(b), would be budgeted and disbursed generally to acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate or promote one or more publicly owned and operated convention centers, sports stadiums, sports arenas, coliseums, or auditoriums within the county; and further including museums, zoological parks, aquariums, fishing piers or nature centers which are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public within the county.
 - d. Up to ten percent of the net revenue, estimated to be \$1,178,931.00 for the 24 months following the passage of this section, would be budgeted and disbursed to promote county tourism by funding tourist-oriented cultural and special events such as visual and performing arts including theater, concerts, recitals, opera, dance, art exhibitions, festivals and other tourist-related activities.
 - e. There shall be an annual amount established by the board of county commissioners for administrative and overhead expenses of the board and council which shall be expended in order to properly coordinate and implement the tourist development plan.
 - f. Pursuant to F.S. § 125.0104(4)(d), the above-stated plan may not be substantially amended except by ordinance enacted by an affirmative vote of a majority plus one additional member of the board. The council shall, from time to time, make recommendations to the board for the effective operation of the special projects or for uses of the tax revenue.
 - g. The setting forth of the anticipated net revenues to be derived from levying the tax during the first 24 months following levy, as required by the Act, shall in no way be interpreted as indicating an intent by the board, through this article, to in any way limit the plan or the tax to said period and the plan and tax shall continue, once duly enacted, until amended or repealed, according to this article and the Act or until it automatically expires pursuant to F.S. § 125.0104(7), if applicable.
- (4) Under the provisions of, and pursuant to F.S. § 125.0104(3)(d) and subsection 102-117(b), an additional one-percent tourist tax is hereby levied and imposed throughout the county as provided by this article. The proposed uses of tax revenue from this additional one percent

tourist development tax, in order of priority, by special use category, shall be allocated as follows:

- (a) Sixty-five percent of the net revenue, estimated to be \$3,831,526.00 for the 24 months following the passage of this section, would be utilized as provided in F.S. § 125.0104(5)(a)(5), to finance beach park facilities or beach, estuary, or lagoon improvement, maintenance, renourishment, restoration and erosion control, including shoreline protection, enhancement, cleanup or restoration of inland lakes and rivers to which there is public access as those uses relate to the physical preservation of the beach, shoreline, estuary, lagoon, or river. However, any funds identified by the county as the local matching source for beach renourishment, restoration, or erosion control projects included in the long-range budget plan for the state's beach management plan, pursuant to F.S. § 161.091, or funds contractually obligated by the county in the financial plan for federally authorized shore protection project may not be used or loaned for any other purpose. Beach improvement and maintenance projects are to receive full funding as the top priority. As the second priority, lagoon- and estuary-related projects shall only receive up to \$1,000,000.00 per year starting in fiscal year 2019, and any such project with a total expected cost that exceeds \$50,000.00 must obtain matching funds from one or more ~~non-county~~ source(s) at a minimum ratio of ~~3-1 2:1~~, or 300 200 percent match prior to receiving tourist development tax revenue. Subject to the limitations provided for in this subsection, the remaining amount of the net revenue shall be used for acceptable purposes identified in F.S. § 125.0104(5)(a)5.
 - b. Twenty-five percent of the net revenue, estimated to be \$1,473,664.00 for the 24 months following the passage of this section, would be used in accordance with F.S. § 125.0104(5)(b) to acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate or promote a zoological park. These revenues are specifically designated to finance the design and construction of capital projects at the Brevard Zoo.
 - c. Ten percent of the net revenue, estimated to be \$589,466.00 for the 24 months following the passage of this section, would be budgeted and disbursed generally, in accordance with F.S. § 125.0104(5)(a)4, to fund convention bureaus, tourist bureaus, tourist information centers, and news bureaus as county agencies or by contract with the chambers of commerce or similar associations in the county, which may include any indirect administrative costs for services performed by the county on behalf of the promotion agency.
 - d. There shall be an annual amount established by the board for administrative and overhead expenses of the board and council which tourist development plan for the additional one-percent tourist development tax shall be expended in order to properly coordinate and implement the additional one-percent tourist development tax.
- (5) Under the provisions of, and pursuant to, F.S. § 125.0104(3)(1) and subsection 102-117(c), an additional one-percent tourist tax is hereby levied and imposed throughout the county as provided by this article. The proposed uses of the net revenue from this additional one-percent tourist development tax, in order of priority, by special use category, shall be allocated as follows:
- a. At least \$350,000.00 of the net revenue per year, estimated to be \$5,894,655.00 for the 24 months following the passage of this section, and up to the entire remaining amount of the net revenue, minus the planned renovations, improvements, and maintenance budgeted in the annual plan for capital maintenance and renovation, shall be budgeted and disbursed to promote and advertise tourism in the state and nationally and internationally. In addition, if tax revenues are expended for an activity, service, venue, or event, the activity, service, venue, or event shall have as one of its main purposes the attraction of tourists as evidenced by the promotion of the activity, service, venue, or event to tourists.
 - b. Up to \$500,000.00 of the net revenue per year shall be allocated for capital renovations, improvements, and maintenance of the Space Coast Stadium Complex or other

professional sports facility, in accordance with an annual plan for the capital maintenance and renovation approved by the board of county commissioners. In order to receive such funds, the Space Coast Stadium Complex or other professional sports facility shall have as one of its main purposes the attraction of tourists as evidenced by the promotion of the venue to tourists.

- (6) Under the provisions of, and pursuant to, F.S. § 125.0104(3)(n) and subsection 102-117(d), an additional one-percent tourist tax is hereby levied and imposed throughout the county as provided by this article. The proposed uses of the tax revenue from this additional one-percent tourist development tax, in order of priority, by special use category, shall be allocated as follows:
 - a. One hundred percent of the net revenue per year, estimated to be \$5,894,655.00 for the 24 months following the passage of this section, would be budgeted and disbursed to promote and advertise tourism in the state and nationally and internationally; however if the tax revenues are expended for an activity, service, venue, or event, the activity, service, venue, or event shall have as one of its main purposes the attraction of tourists as evidenced by the promotion of the activity, service, venue, or event to tourists.
 - b. There shall be an annual amount established by the board for administrative and overhead expenses of the board and council which tourist development plan for the additional one-percent tourist development tax shall be expended in order to properly coordinate and implement the additional one-percent tourist development tax.
- (7) Such anticipated revenue shall be administered by the board of county commissioners through established county government administration, county agencies, existing or hereafter created, or by contract with chambers of commerce or similar nonprofit associations within the county in a manner prescribed by subsequent ordinance or resolution.
- (8) The clerk to the board of county commissioners is hereby directed to establish a county tourist development trust fund. All collections received by the tax collector from the tax imposed and levied by this article shall be placed in such trust fund.

(Code 1979, § 21-38; Ord. No. 01-27, § 1, 5-22-01; Ord. No. 2005-21, § 2, 5-10-05; Ord. No. 2017-24, § 1, 10-10-17; Ord. No. 2018-19, § 1, 8-14-18)

Sec. 102-119. - Budget plan.

The board of county commissioners hereby adopts the following plan of the advisory tourist development council for tourist development:

- (1) Under the provisions of, and pursuant to, the Act, a two-percent tax is levied and imposed throughout the county beginning on the first day of the month following elector approval of this article and its tourist development tax by referendum as provided by this article.
- (2) The anticipated net revenue from the tourist development tax to be derived by the county for the 24-month period beginning on the date of levy is estimated to be approximately \$11,789,311.00. The anticipated net revenue from the tourist development tax to be derived by the county for the 24-month period beginning on the date of the levy was included in the ordinance at the time the levy was initially enacted.
- (3) The proposed uses of the tax revenue, generated pursuant to F.S. § 125.0104(3)(c), in order of priority, by special use category, shall be allocated as follows:
 - a. At least 25 percent of the net revenue, estimated to be \$2,947,328.00 for the 24 months following the passage of this section, would be budgeted and disbursed to promote and advertise county tourism in the state, nationally and internationally; however, if tax revenues are expended for an activity, service, venue, or event, the activity, service, venue, or event must have as one of its main purposes the attraction of tourists as evidenced by the promotion of the activity, service, venue, or event to tourists.
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 - c. Up to 35 percent of the net revenue, estimated to be \$4,126,259.00 for the 24 months following the passage of this section, in accordance with F.S. § 125.0104(5)(a)1. and (5)(b), would be budgeted and disbursed generally to acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate or promote one or more publicly owned and operated convention centers, sports stadiums, sports arenas, coliseums, or auditoriums within the county; and further including museums, zoological parks, aquariums, fishing piers or nature centers which are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public within the county.
 - d. Up to ten percent of the net revenue, estimated to be \$1,178,931.00 for the 24 months following the passage of this section, would be budgeted and disbursed to promote county tourism by funding tourist-oriented cultural and special events such as visual and performing arts including theater, concerts, recitals, opera, dance, art exhibitions, festivals and other tourist-related activities.
 - e. There shall be an annual amount established by the board of county commissioners for administrative and overhead expenses of the board and council which shall be expended in order to properly coordinate and implement the tourist development plan.
 - f. Pursuant to F.S. § 125.0104(4)(d), the above-stated plan may not be substantially amended except by ordinance enacted by an affirmative vote of a majority plus one additional member of the board. The council shall, from time to time, make recommendations to the board for the effective operation of the special projects or for uses of the tax revenue.
 - g. The setting forth of the anticipated net revenues to be derived from levying the tax during the first 24 months following levy, as required by the Act, shall in no way be interpreted as indicating an intent by the board, through this article, to in any way limit the plan or the tax to said period and the plan and tax shall continue, once duly enacted, until amended or repealed, according to this article and the Act or until it automatically expires pursuant to F.S. § 125.0104(7), if applicable.

- (4) Under the provisions of, and pursuant to F.S. § 125.0104(3)(d) and subsection 102-117(b), an additional one-percent tourist tax is hereby levied and imposed throughout the county as provided by this article. The proposed uses of tax revenue from this additional one percent tourist development tax, in order of priority, by special use category, shall be allocated as follows:
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 - b. Twenty-five percent of the net revenue, ~~estimated to be \$1,473,664.00 for the 24 months following the passage of this section,~~ would be used in accordance with F.S. § 125.0104(5)(b) to acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate or promote a zoological park. These revenues are specifically designated to finance the design and construction of capital projects at the Brevard Zoo.
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 - d. There shall be an annual amount established by the board for administrative and overhead expenses of the board and council which tourist development plan for the additional one-percent tourist development tax shall be expended in order to properly coordinate and implement the additional one-percent tourist development tax.
- (5) Under the provisions of, and pursuant to, F.S. § 125.0104(3)(1) and subsection 102-117(c), an additional one-percent tourist tax is hereby levied and imposed throughout the county as provided by this article. The proposed uses of the net revenue from this additional one-percent tourist development tax, in order of priority, by special use category, shall be allocated as follows:
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- b. Up to \$500,000.00 of the net revenue per year shall be allocated for capital renovations, improvements, and maintenance of the Space Coast Stadium Complex or other professional sports facility, in accordance with an annual plan for the capital maintenance and renovation approved by the board of county commissioners. In order to receive such funds, the Space Coast Stadium Complex or other professional sports facility shall have as one of its main purposes the attraction of tourists as evidenced by the promotion of the venue to tourists.
- (6) Under the provisions of, and pursuant to, F.S. § 125.0104(3)(n) and subsection 102-117(d), an additional one-percent tourist tax is hereby levied and imposed throughout the county as provided by this article. The proposed uses of the tax revenue from this additional one-percent tourist development tax, in order of priority, by special use category, shall be allocated as follows:
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- (7) Such anticipated revenue shall be administered by the board of county commissioners through established county government administration, county agencies, existing or hereafter created, or by contract with chambers of commerce or similar nonprofit associations within the county in a manner prescribed by subsequent ordinance or resolution.
- (8) The clerk to the board of county commissioners is hereby directed to establish a county tourist development trust fund. All collections received by the tax collector from the tax imposed and levied by this article shall be placed in such trust fund.

(Code 1979, § 21-38; Ord. No. 01-27, § 1, 5-22-01; Ord. No. 2005-21, § 2, 5-10-05; Ord. No. 2017-24, § 1, 10-10-17; Ord. No. 2018-19, § 1, 8-14-18)