

Agenda Memorandum – *City of Inverness*

DATE: June 15, 2016
ISSUE: Utility System Service Tax Ordinance
FROM: City Manager
CC: City Clerk, Finance Director
ATTACHED: Memo by Sheri Chiodo
Proposed Ordinance

Reference is made to attachments.

Development of the City Budget for 2016/17 included the calculation of a service fee (tax) on the Utility System. The new fee is limited to those served within the City of Inverness. The State of Florida allows up to a 10% charge; however, the proposed application will be imposed at 3% to generate some \$37,326.00 to support General Fund operations. Prior to actual implementation, a Public Hearing must be conducted and customers must receive a notice 120 days in advance.

The City Attorney reviewed the Ordinance structure and language and finds it legally sufficient to proceed.

Recommended Action –

1. Motion and second to read the Ordinance by title only
 - a. Clerk reads Ordinance Title
2. Deliberate and to proceed, motion and second to adopt the Ordinance on the 1st reading by roll-call.


Frank DiGiovanni

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FINANCE DEPARTMENT



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Memorandum

To: Frank DiGiovanni, City Manager

From: Sheri Chiodo, Director of Finance

CC: Susan Jackson, Interim City Clerk

Date: September 14, 2016

Reference: Water Public Service Tax - Ordinance

During the 2017 budget development season the Finance Department was tasked to review the potential for levying a water utility tax rate and analyze growth capacity of this revenue stream.

Statutory Authority

Florida Statute 166.231 provides municipal authority to levy a public service tax on the purchase of electricity, metered natural gas, liquefied petroleum gas either metered or bottled, manufactured gas either metered or bottled, and water service. The taxes are only on purchases within the municipal limits and the tax rate cannot exceed 10% of the payments received by the seller.

Statutes require municipalities provide a 120 day notice to the Department of Revenue of increases in the public service tax before the effective date of the tax increase. The City will also be required to provide advanced notice to impacted service providers.

City of Inverness Public Service Tax History

The City adopted its first Public Service Tax on October 1, 1985 at the rate of 5% for electric, gas, telegraph and telecommunications services for purchases made after October 31, 1985 and through September 30, 1987. Additionally 2 cents per gallon tax was levied on fuel oil.

City Council, on June 2, 1987 extended the tax period through September 30, 1992.

September 20, 1988 the City increased the public service tax rate from 5% to 8% but maintained the .02 cents per gallon on fuel oil.

October 18, 1988 the City reduced the Telecommunications and Telegraph public service tax to 7%.

July 19, 1994 the City increased the tax on electric and gas from 8% to 9% and maintained the Telecommunications and Telegraph tax at 7% and the fuel oil tax at .02 cents per gallon. Council on this date also extended the sunset date of the tax to September 30, 1995.

August 1, 1995 the City repealed the sunset provision of the utility tax, making the tax a permanent revenue source for the City.

During the 2000 and 2001 sessions, the Florida Legislature enacted the Communication Service Tax (CST). The Act was structured to combine all existing taxes imposed on communication providers into a single fee. The intention of this Act was to eliminate confusion the industry experienced with the fact various fees/taxes were levied by multiple governments. The Act consolidated the collections of the communications tax with the

Department of Revenue who verifies tax report submissions, audits and disburses the tax funds to municipalities.

July 3, 2001 the City eliminated its telecommunications and telegraphs public service tax and adopted a Communications Service Tax rate of 5.6% for the period beginning October 1, 2001 and ending September 30, 2002 and adopted a rate of 5.32% effective October 1, 2002. The rates were developed in conjunction with the State and the amounts represented a conversion rate to ensure stable revenues from the tax.

On January 1, 2012 the City increased the public service tax rate from 9% to 10% on the purchase of electricity, metered natural gas, liquefied petroleum gas either metered or bottled and manufactured gas either metered or bottled.

The City has never elected to levy a water public service tax as authorized by statute.

Summary of Analysis

The State of Florida allows a maximum public service tax rate of 10% for water sales in the municipal limits. The purpose of the study was to identify the limits of tax the City could assess and provide an analysis of revenue impacts if the tax was adopted at 3%.

The City would generate additional revenue of approximately \$37,326 annually with the increase in the public service taxes for water service. Each 1% generates \$12,442 in revenue based on the Fiscal Year 2016 Water Sales. The tax would be levied on all water availability and water usage charges assessed by the City on residential and commercial properties within the City limits. The tax will not be levied on water customers residing outside the City limits.

I surveyed cities in the Counties of Citrus, Marion, Lake, Levy, Putnam, Hernando, Hillsborough, Alachua, Pasco, Polk, Pinellas and Sumter on public service tax rates and have provided the results as attachments to this memo. A summary of the results follow:

Service Taxed	# Surveyed	No Tax	< 4% Tax	5%-9.5% Tax	10% Tax (Max)
Water	96	41 (42.71% surveyed)	1 (1.04% surveyed)	6 (6.25% surveyed)	48 (50% surveyed)

Recommendation

Staff recommends the City levy a 3% public service tax on the purchase of water as established in the proposed ordinance. Slow growth in General Fund revenues has negatively impacted the revenue stream in the General Fund. The City continues to experience declining base line property values, slow growth in interest earnings, and an unstable environment in state shared revenues. Recommendation is made to maximize locally controlled revenues to minimize the impacts of those revenue declines outside of the City’s control.

The City is required to provide a 120 day notice to the Department of Revenue; therefore, the proposed effective date of the Ordinance is proposed for February 2, 2017.

The City Attorney has reviewed the proposed ordinance language, recommended a change which has been incorporated in the final ordinance and approved the Ordinance to form to be considered by Council. The email of his approval is attached for your reference.

ORDINANCE NO. 2016- 721

AN ORDINANCE OF THE CITY OF INVERNESS, FLORIDA, AMENDING CHAPTER 20, TAXATION, ARTICLE II IN THE CODE OF ORDINANCES, "UTILITY TAX;" AMENDING ARTICLE II TITLE TO PUBLIC SERVICE TAX; AMENDING SECTION 20-16. - LEVIED, TO PROVIDE FOR A THREE PERCENT (3%) PUBLIC SERVICE TAX ON WATER; AMENDING SECTION 20-19 COMPENSATION TO SELLERS TO ADD THE SELLER OF WATER; AMENDING SECTION 20-20 DUTY OF SELLER TO COLLECT TAX TO ADD WATER; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Inverness, Florida in regular meeting this ____ day of _____, 2016 as follows:

Section 1. That the code of Ordinances of the City of Inverness, Florida, Chapter 20, Taxation, Article II, Utility Tax, is hereby amended to change the title of Article II, Utility Tax to Public Service Tax to maintain uniformity with Florida Statute 166.231.

Section 2. That the code of Ordinances of the City of Inverness, Florida, Chapter 20, Taxation, Article II, Public Service Tax, Section 20-16 entitled Levied is hereby amended to reads as follows:

(1) It is hereby imposed and levied by the City of Inverness a tax on every purchase of electricity, metered natural gas, liquefied petroleum gas either metered or bottled and manufactured gas either metered or bottled within the corporate limits in the city as defined in Section 166.231(1)(a), Florida Statutes in the amount of ten (10) per cent of the monthly charge for each service as collected by the seller of such utility service from the purchaser. Effective January 1, 2011, the utility tax on services shall be increased from nine (9) to ten (10) per cent.

(2) It is hereby imposed and levied by the City of Inverness a tax on every purchase of fuel oil within the corporate limits of the city in the amount of two cents (\$0.02) per gallon as sold by the seller of such product to the purchaser.

(3) It is hereby imposed and levied by the City of Inverness a tax on every purchase of water within the corporate limits of the City in the amount of 3% of the monthly water charge as collected by the seller of such utility service from the purchaser.

(4) This utility tax shall not be levied on any portion of a customer's bill representing a "fuel adjustment charge," and such charge shall be separately stated on each bill pursuant to Section 166.231(1)(b), Florida Statutes, and as subsequently amended.

Section 3. That the code of Ordinances of the City of Inverness, Florida, Chapter 20, Taxation, Article II, Utility Tax, Section 20-19 entitled Compensation to sellers is hereby amended to reads as follows:

(1) For purposes of compensating the seller of electricity, metered or bottled gas (natural, liquefied petroleum gas or manufactured, and fuel oil) or water, the seller of such utilities are to be allowed one per cent of the amount of the tax collected and due to the City of Inverness in the form of a deduction from the amount collected for

remittance. The deduction shall be allowed as compensation for keeping of records and collection of tax and remitting the same to the City of Inverness.

Section 4. That the code of Ordinances of the City of Inverness, Florida, Chapter 20, Taxation, Article II, Public Service Tax, Section 20-20 entitled Duty of seller to collect tax is hereby amended to reads as follows:

- (1) It shall be the duty of every seller of electricity, metered or bottled gas (natural, liquefied petroleum gas or manufactured), water and fuel oil within the corporate limits of the City of Inverness to collect from the purchase thereof for the use of the City, the tax hereby levied at the time of collecting the selling price, and to report and pay over on or before the last day of each calendar month to the City of Inverness, all such taxes levied and collected during the preceding calendar month. It shall be unlawful for any seller to collect for any utility service without at the same time collecting the tax hereby levied unless such seller shall elect to assume and pay such tax without collecting the same from the purchaser. Any seller failing to collect such tax at the time of collecting for such utility service where the seller has not elected to assume and pay such tax shall be liable to the city for the amount of such tax; provided, however, that the seller shall not be liable for the payment of such tax upon uncollected bills.
- (2) If any purchaser shall fail, neglect, or refuse to pay for such utility service, including the tax hereby imposed, the seller shall have the right and is hereby authorized and empowered to immediately discontinue further service to such purchaser until the tax and the seller's bill shall have been paid in full.

Section 5. Inclusion in Code. It is the intention of the City of Inverness City Council that the provisions of this Ordinance shall become and be made a part of the City of Inverness Code; and that the sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions.

Section 6. Severability. That it is hereby declared to be the intention of the City of Inverness City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance are severable. If any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional by valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

Section 7. Effective Date. This Ordinance shall take effect on February 2, 2017.

UPON MOTION duly made and carried, the foregoing Ordinance was approved the first reading on the ____ day of _____, 2016.

UPON MOTION duly made and carried, the foregoing Ordinance was adopted on the second reading on the ____ day of _____, 2016.

CITY OF INVERNESS

By: _____

DAVID RYAN,
President of City Council

ATTEST:

SUSAN JACKSON
Acting City Clerk

Approved by me as Mayor of the City of Inverness, this ____ day of _____, 2016.

ROBERT PLAISTED, Mayor

Municipal Public Service Tax Database as of 07/18/2016				
Municipality	County	Public Service Taxed	Tax Rate	Effective Date
WILDWOOD	SUMTER	WATER	5.00%	
DUNDEE	POLK	WATER	10.00%	4/28/2015
HIGH SPRINGS	ALACHUA	WATER	0.00%	
NEWBERRY	ALACHUA	WATER	0.00%	
WALDO	ALACHUA	WATER	0.00%	
CRYSTAL RIVER	CITRUS	WATER	0.00%	
INVERNESS	CITRUS	WATER	0.00%	
BROOKSVILLE	HERNANDO	WATER	0.00%	
WEEKI WACHEE	HERNANDO	WATER	0.00%	
HILLSBOROUGH COUNTY (UNINCORPORATED)	HILLSBOROUGH	WATER	0.00%	
ASTATULA	LAKE	WATER	0.00%	
GROVELAND	LAKE	WATER	0.00%	
MASCOTTE	LAKE	WATER	0.00%	
MONTVERDE	LAKE	WATER	0.00%	
CEDAR KEY	LEVY	WATER	0.00%	
INGLIS	LEVY	WATER	0.00%	
OTTER CREEK	LEVY	WATER	0.00%	
YANKEETOWN	LEVY	WATER	0.00%	
BELLEVIEW	MARION	WATER	0.00%	
DUNNELLON	MARION	WATER	0.00%	
OCALA	MARION	WATER	0.00%	
REDDICK	MARION	WATER	0.00%	
DADE CITY	PASCO	WATER	0.00%	
NEW PORT RICHEY	PASCO	WATER	0.00%	
SAINT LEO	PASCO	WATER	0.00%	
ZEPHYRHILLS	PASCO	WATER	0.00%	
BELLEAIR	PINELLAS	WATER	0.00%	
BELLEAIR BLUFFS	PINELLAS	WATER	0.00%	
BELLEAIR SHORE	PINELLAS	WATER	0.00%	

Municipal Public Service Tax Database as of 07/18/2016				
Municipality	County	Public Service Taxed	Tax Rate	Effective Date
DUNEDIN	PINELLAS	WATER	0.00%	02/13/1986
INDIAN ROCKS BEACH	PINELLAS	WATER	0.00%	
NORTH REDINGTON BEACH	PINELLAS	WATER	0.00%	
OLDSMAR	PINELLAS	WATER	0.00%	02/18/1986
PINELLAS CHARTERED COUNTY	PINELLAS	WATER	0.00%	
REDINGTON SHORES	PINELLAS	WATER	0.00%	
SAFETY HARBOR	PINELLAS	WATER	0.00%	
SEMINOLE	PINELLAS	WATER	0.00%	
EAGLE LAKE	POLK	WATER	0.00%	
FROSTPROOF	POLK	WATER	0.00%	
HIGHLAND PARK	POLK	WATER	0.00%	
HILLCREST HEIGHTS	POLK	WATER	0.00%	
CRESCENT CITY	PUTNAM	WATER	0.00%	
WELAKA	PUTNAM	WATER	0.00%	
ALACHUA	ALACHUA	WATER	10.00%	01/04/1988
ALACHUA COUNTY	ALACHUA	WATER	10.00%	10/01/1996
ARCHER	ALACHUA	WATER	10.00%	08/11/2003
GAINESVILLE	ALACHUA	WATER	10.00%	1960
PLANT CITY	HILLSBOROUGH	WATER	10.00%	09/14/1992
TAMPA	HILLSBOROUGH	WATER	10.00%	10/01/1973
TEMPLE TERRACE	HILLSBOROUGH	WATER	10.00%	05/06/1986
EUSTIS	LAKE	WATER	10.00%	10/01/1993
FRUITLAND PARK	LAKE	WATER	10.00%	09/08/1994
HOWEY-IN-THE-HILLS	LAKE	WATER	10.00%	09/12/1988
LADY LAKE	LAKE	WATER	10.00%	
LEESBURG	LAKE	WATER	10.00%	04/01/2000
MOUNT DORA	LAKE	WATER	10.00%	Prior to 1969
TAVARES	LAKE	WATER	10.00%	02/01/1993
UMATILLA	LAKE	WATER	10.00%	1984

Municipal Public Service Tax Database as of 07/18/2016				
Municipality	County	Public Service Taxed	Tax Rate	Effective Date
CHIEFLAND	LEVY	WATER	10.00%	07/06/1972
WILLISTON	LEVY	WATER	10.00%	04/01/2007
MCINTOSH	MARION	WATER	10.00%	10/01/2011
BELLEAIR BEACH	PINELLAS	WATER	10.00%	01/01/2000
CLEARWATER	PINELLAS	WATER	10.00%	02/16/1959
GULFPORT	PINELLAS	WATER	10.00%	
INDIAN SHORES	PINELLAS	WATER	10.00%	01/01/2005
KENNETH CITY	PINELLAS	WATER	10.00%	04/01/2013
LARGO	PINELLAS	WATER	10.00%	11/01/1995
MADEIRA BEACH	PINELLAS	WATER	10.00%	Current
PINELLAS PARK	PINELLAS	WATER	10.00%	07/28/1988
SAINT PETE BEACH	PINELLAS	WATER	10.00%	09/24/1997
SAINT PETERSBURG	PINELLAS	WATER	10.00%	
SOUTH PASADENA	PINELLAS	WATER	10.00%	
TARPON SPRINGS	PINELLAS	WATER	10.00%	09/01/1988
TREASURE ISLAND	PINELLAS	WATER	10.00%	01/01/2009
AUBURNDALE	POLK	WATER	10.00%	06/04/1997
BARTOW	POLK	WATER	10.00%	02/02/1948
DAVENPORT	POLK	WATER	10.00%	09/28/1993
FORT MEADE	POLK	WATER	10.00%	
HAINES CITY	POLK	WATER	10.00%	
LAKE ALFRED	POLK	WATER	10.00%	
LAKE HAMILTON	POLK	WATER	10.00%	09/06/1988
LAKE WALES	POLK	WATER	10.00%	03/06/1990
LAKELAND	POLK	WATER	10.00%	
MULBERRY	POLK	WATER	10.00%	09/05/1972
POLK CITY	POLK	WATER	10.00%	12/28/1992
POLK COUNTY	POLK	WATER	10.00%	10/01/2005
WINTER HAVEN	POLK	WATER	10.00%	05/01/1957

Municipal Public Service Tax Database as of 07/18/2016

Municipality	County	Public Service Taxed	Tax Rate	Effective Date
PALATKA	PUTNAM	WATER	10.00%	10/08/1992
BUSHNELL	SUMTER	WATER	10.00%	05/02/1972
CENTER HILL	SUMTER	WATER	10.00%	04/01/1969
REDINGTON BEACH	PINELLAS	WATER	2.25% per 1000 gal.	10/01/1995
CLERMONT	LAKE	WATER	5.00%	09/11/1990
BRONSON	LEVY	WATER	5.00%	11/04/1991
LACROSSE	ALACHUA	WATER	6.00%	04/01/2014
LADY LAKE	LAKE	WATER	6.00%	01/01/2002
POMONA PARK	PUTNAM	WATER	6.00%	01/01/2014