

Agenda Memorandum – *City of Inverness*

DATE: September 29, 2016
ISSUE: Utility System Service Tax Ordinance – Public Hearing, 2nd Reading
FROM: City Manager
CC: City Clerk, Finance Director
ATTACHED: Prior Meeting Memorandums and Documents
Ordinance
Public Notice

Reference is made to attachments and prior meeting data.

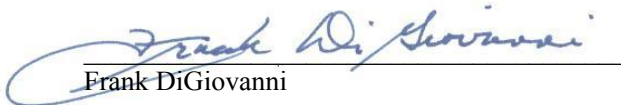
A Public Hearing has been duly noticed to be conducted as part of the 2nd Ordinance reading to impose a tax on Water Service within municipal limits.

The purpose of the public hearing is to receive comment regarding this proposal before enactment. 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.

City Legal Counsel reviewed all information and finds it meets legal sufficiency.

Recommended Action –

1. Motion, second and vote to read the Ordinance by title only
 - a. Clerk reads Ordinance title
2. Open a Public Hearing to receive comment on the proposed measure
 - a. Those for – Those against
3. Close the Public Hearing to deliberate
4. To proceed, motion and second to adopt the Ordinance on 2nd 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

Proof of Publication

from the
CITRUS COUNTY CHRONICLE
Crystal River, Citrus County, Florida
PUBLISHED DAILY

STATE OF FLORIDA
COUNTY OF CITRUS

Before the undersigned authority personally appeared

John Murphy and/or Mary Ann Naczi and/or Mishayla Coffas

Of the Citrus County Chronicle, a newspaper published daily at Crystal River, in Citrus County, Florida, that the attached copy of advertisement being a public notice in the matter of the

897-0923 FCN PUBLIC NOTICE OF PROPOSED ENACTMENT NOTICE is hereby given by the City Council of the City of Inverness, Florida that pursuant to Chapter 166.041 of the laws of Florida a Public Notice be given by the City Council of the City of Inve

Court, was published in said newspaper in the issues of September 23rd, 2016.

Affiant further says that the Citrus County Chronicle is a Newspaper published at Crystal River in said Citrus County, Florida, and that the said newspaper has heretofore been continuously published in Citrus County, Marion County and Levy County, Florida, each week and has been entered as second class mail matter at the post office in Inverness in said Citrus County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he/she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Mishayla Coffas
The forgoing instrument was acknowledged before me

This 23rd day of Sept, 2016
By: John Murphy and/or Mary Ann Naczi and/or Mishayla Coffas

who is personally known to me and who did take an oath.

Mary Ann Naczi
Notary Public

897-0923 FCN
PUBLIC NOTICE OF PROPOSED ENACTMENT

NOTICE is hereby given by the City Council of the City of Inverness, Florida that pursuant to Chapter 166.041 of the laws of Florida a Public Notice be given by the City Council of the City of Inverness that an ordinance entitled:

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.

will be considered for final reading and adoption by the City Council. All interested parties may appear at the meeting and be heard with respect to the proposed Ordinances at 5:31 PM, October 4, 2016.

Copy of the proposed ordinance will be on file with and available for inspection by the public in the office of the City Clerk in the City Hall, 212 W. Main Street, Inverness, Florida, between the hours of 8:30 AM and 4:00 PM, Monday through Friday of each week.

Be advised that if any person or persons may wish to appeal a decision of the City Council of the City of Inverness, Florida, made at this meeting, a record of the proceedings will be needed by such person or persons and a verbatim record may be needed.

This Notice is issued under my hand as the President of the City Council of the City of Inverness this 20th day of September, 2016.

Attest: /s/ Susan Jackson
Interim City Clerk

/s/ David Ryan
President of City Council

Published one time in the Citrus County Chronicle - Friday, September 23, 2016

