

## Bay County Board of County Commissioners Agenda Item Summary

**1. DEPARTMENT MAKING REQUEST/NAME:**

Tourist Development Council  
Dan Rowe, Executive Director

**2. MEETING DATE:**

February 17, 2009

**3. REQUESTED MOTION/ACTION:**

Board approve an increase in the tourist development tax rate and subsequent amendment to the Bay County Tourist Development Plan for FY 2009 and 2010.

**4. AGENDA**

- PRESENTATION
- PUBLIC HEARING
- CONSENT
- REGULAR

**5. IS THIS ITEM BUDGETED (IF APPLICABLE)?:** YES  NO  IF NO, STATE ACTION REQUIRED  N/A

BUDGET ACTION: BUDGET AMENDMENT NEEDED IF APPROVED  
FINANCIAL IMPACT SUMMARY STATEMENT: ADDITIONAL BED TAX REVENUES WILL NEED TO BE RECOGNIZED IF APPROVED

DETAILED ANALYSIS ATTACHED?: YES  NO

**6. BACKGROUND: (WHY IS THE ACTION NECESSARY, WHAT ACTION WILL BE ACCOMPLISHED, (WHO, WHERE, WHEN & HOW))**

Over the past year, the Tourist Development Council (TDC) developed a Strategic Plan to provide a framework to grow tourism spending within the Special Taxing District of Bay County. On December 17, 2008, the TDC unanimously recommended an increase in the tourist development tax (TDT) rate from 3% to 5%. This user tax is collected exclusively on overnight lodging stays within the Special Taxing Districts of Panama City Beach and Mexico Beach. The additional revenues will be used to further market Bay County's beaches as tourist destinations, to provide for additional beach maintenance and other tourist related purposes.

The first attached ordinance (**EXHIBIT 1**) increases the TDT rate by an additional 1% and requires a majority, plus one vote of the Board of County Commissioners to be enacted.

The second attached ordinance (**EXHIBIT 2**) realigns the Bay County Tourist Development Plan to be consistent with the increase of revenues available to market Bay County's beaches. This revision to the plan requires a majority, plus one vote of the Board of County Commissioners to be enacted.

**ORDINANCE NO. 09- \_\_\_\_\_**

**AN ORDINANCE OF BAY COUNTY, FLORIDA, IMMEDIATELY IMPOSING AND LEVYING AN ADDITIONAL ONE PERCENT (1%) TOURIST DEVELOPMENT TAX (THE 5<sup>TH</sup> CENT) IN THE EXISTING PANAMA CITY BEACH / MEXICO BEACH SUBCOUNTY SPECIAL TAX DISTRICT IN BAY COUNTY FLORIDA; PROVIDING FOR THE COLLECTION AND DESIGNATION OF THE ADDITIONAL TAX; SPECIFYING THE USE OF THE PROCEEDS OF THE ADDITIONAL TAX; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF BAY COUNTY; PROVIDING THAT THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY UPON ADOPTION AND THAT THE EFFECTIVE DATE OF THE LEVY AND IMPOSITION MADE HEREBY, AND THE COMMENCEMENT OF COLLECTION OF THE ADDITIONAL TAX HEREUNDER, SHALL BE MARCH 1, 2009.**

**WHEREAS**, Section 125.0104, Florida Statutes (2008), provides for the levy of up to a six percent (6%) Tourist Development Tax by counties meeting the statutory requirements for such levies; and

**WHEREAS**, a two percent (2%) Tourist Development Tax was imposed within the greater Panama City Beaches sub-county special tax district by Bay County Ordinance 86-01 approved in a special referendum held February 11, 1986, with collection commencing March 1, 1986, for the purpose of promoting and advertising tourism and maintaining the greater Panama City Beaches in Bay County; and

**WHEREAS**, upon the unanimous recommendation of the Bay County Tourist Development Council (the "TDC"), an additional one percent (1%) Tourist Development Tax was imposed within the greater Panama City Beaches sub-county special tax district by Ordinance 77-01, with collection commencing March 1, 1997, for the exclusive

purpose of nourishing and renourishing the greater Panama City Beaches in Bay County;  
and

**WHEREAS**, the sub-county special tax district was expanded to include the Mexico Beaches area by Bay County Ordinance 97-11 approved in a special referendum held November 4, 1997, with collection commencing January 1, 1998, for the purpose of promoting and advertising tourism for Mexico Beach and maintenance of the beaches there; and

**WHEREAS**, upon the unanimous recommendation of the TDC, an additional one percent (1%) Tourist Development Tax was imposed by Bay County Ordinance 09- \_\_\_\_ within the greater Panama City Beaches / Mexico Beaches sub-county special tax district with collection commencing March 1, 2009, to be used for the promotion and advertisement of tourism in Bay County and in particular within the sub-county special tax district; and

**WHEREAS**, the Bay County TDC, also comprising the Panama City Beach Convention and Visitors Bureau (the "CVB"), has unanimously determined, and the Mexico Beach Community Development Council (the "CDC") has concurred, that a second, additional one percent (1%) Tourist Development Tax is necessary to give Bay County sufficient revenue to raise its tourism message above the crowd of its competitors and, at the same time, improve its product, maintain its beaches and begin the reservation of capital needed to address through partnerships with the private sector the sports infrastructure that the TDC has determined will be required to competitively maintain and expand Bay County's team sports visitation; and

**WHEREAS**, Section 125.0104(3) (n), Florida Statutes (2008), authorizes the imposition of an additional one percent (1%) Tourist Development Tax above the current three percent (3%) by majority vote plus one of the Board of County Commissioners to be used for the promotion and advertisement of tourism in Bay County and in particular within the sub-county special tax district; and

**WHEREAS**, increased promotion and advertising of tourism in Bay County, and in particular the sub-county special tax district, will result in an increased number of tourists spending dollars in the County, boosting the local economy and providing a clear economic and community benefit at a time crucial to the citizens and taxpayers of Bay County; and

**WHEREAS**, on December 17, 2008, following a well publicized and well attended public hearing, the Bay County Tourist Development Council unanimously recommended that the Tourist Development Tax be increased by an additional two percent (2%) per dollar.

**NOW THEREFORE, BE IT ORDAINED** by the Board of County Commissioners of Bay County, Florida:

Section 1. Levy And Imposition of Additional One Percent (1%) Tourist Development Tax.

Pursuant to Section 125.0104(3)(n), Florida Statutes (2008), there is hereby levied, imposed and set an additional Tourist Development Tax (the "Additional Tax") of one percent (1%) of each dollar and major fraction of each dollar of the total consideration charged every person for the lease or rental of living quarters or accommodations as authorized by Section 125.0104 Florida Statutes (2008), which includes lease or rental in

any hotel, apartment hotel, motel, resort motel, apartment, apartment motel, rooming house, tourist or trailer camp, or condominium for a term of six (6) months or less. When receipt of consideration is by way of property other than money, the tax is to be levied and imposed on the fair market value of such non-monetary consideration. Accordingly, the Tourist Development Tax rate established by Section 2(A) of Ordinance 86-01, as amended by Section 1 of Ordinance 97-01 and Section 1 of Ordinance 09-[ ] is hereby increased from four percent (4%) to five percent (5%).

Section 2. Collection of Additional Tax.

The Additional Tax shall be collected by the Clerk of the Circuit Court, without priority or distinction but on a *pari passu* basis with the other four percent (4%) Tourist Development Tax collected. One-fifth (1/5) of the total Tax collected pursuant to Ordinance 86-01, as amended by Ordinances 97-01 and 09- \_\_\_\_\_, and this ordinance, is hereby designated as the proceeds of the Additional Tax imposed by this Ordinance.

Section 3. Use of Proceeds of Additional Tax.

The proceeds of the Additional Tax imposed by this Ordinance shall be used exclusively to promote and/or advertise tourism in the State of Florida and/or nationally and/or internationally for the benefit of Bay County, Florida, and in particular the special sub-county tax district; however, if tax revenues are expended for an activity, service, venue or event, that 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.

Section 4. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, it is the intent of the Board of

County Commissioners that the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

Section 5. Repeal. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

Section 6. Inclusion in Code. It is the intention of the board of county commissioners of Bay County, Florida, and it is hereby provided that the provisions of this Ordinance shall become and be made a part of the Code of Bay County, Florida; that the word "ordinance" may be changed to "section," "article" or other appropriate designation.

Section 7. Effective Date. A certified copy of this Ordinance as enacted shall be filed by the Clerk of the board with the office of the Secretary of State of the State of Florida within ten (10) days after enactment, and this ordinance shall take effect in accordance with Section 125.66(2), Florida Statutes; more specifically, this Ordinance shall take effect immediately upon passage and the effective date of the levy and imposition made hereby, and the commencement of collection of Additional Tax hereunder, shall be March 1, 2009.

**PASSED AND ADOPTED** this 17<sup>th</sup> day of February, 2009

BOARD OF COUNTY COMMISSIONERS  
OF BAY COUNTY, FLORIDA

ATTEST:

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Clerk of Court

Reviewed and Approved as to Form and Content:

\_\_\_\_\_  
Office of County Attorney

NOW THEREFORE BE IT ORDAINED by the Board of County Commissioners of Bay County, Florida, that:

SECTION 1. This Ordinance shall be known and may be referred to as the “Amended FY 2009 and 2010 Bay County Tourist Development Plan.”

SECTION 2. The Amended FY 2009 and 2010 Bay County Tourist Development Plan is hereby created to read as follows, to become effective March 1, 2009.

Amended  
FY 2009 AND 2010 BAY COUNTY  
TOURIST DEVELOPMENT PLAN

1. Anticipated Panama City Beach Tax Revenue.

The anticipated tax revenue to be derived in the original Panama City Beach Tax District during the nineteen (19) operating months beginning March 1, 2009, is \$ 19,000,000. Actual revenues may be more or less than anticipated tax revenues.

2. Anticipated Mexico Beach Tax Revenue.

The anticipated tax revenue to be derived in the Mexico Beach Tax District during the nineteen (19) operating months beginning March 1, 2009, is \$600,000. Actual revenues may be more or less than anticipated tax revenues.

3. Proposed Use of Panama City Beach Tax Revenue.

The general uses and projects that are to be funded by the Panama City Beach tax revenue shall be as materially in the proportions and for the purposes generally set forth below:

## ORDINANCE NO. 09- \_\_\_\_\_

AN ORDINANCE AMENDING ORDINANCE NO. 86-01, ENTITLED "AN ORDINANCE OF BAY COUNTY, FLORIDA, IMPOSING AND LEVYING A TWO PERCENT (2%) TOURIST DEVELOPMENT TAX AND ESTABLISHING A SUB-COUNTY SPECIAL TAX DISTRICT IN BAY COUNTY, FLORIDA, AND DEFINING THE BOUNDARIES THEREOF PURSUANT TO CHAPTER 125.0104, FLORIDA STATUTES; APPROVING THE BAY COUNTY, FLORIDA, TOURIST DEVELOPMENT COUNCIL'S PLAN PREPARED AND SUBMITTED PURSUANT TO BAY COUNTY, FLORIDA, ORDINANCE NO. 85-06; PROVIDING FOR COLLECTION OF SAID TAX; PROVIDING THAT THE TAX SO RAISED OR COLLECTED SHALL BE USED TO IMPLEMENT THE BAY COUNTY TOURIST DEVELOPMENT COUNCIL PLAN; PROVIDING FOR REFERENDUM ELECTION TO IMPOSE AND LEVY THE TAX; PROVIDING FOR SEVERABILITY OF ORDINANCE PROVISIONS; AND PROVIDING AN EFFECTIVE DATE," AS AMENDED; TO REVISE AND RESTATE THE BAY COUNTY TOURIST DEVELOPMENT PLAN FOR FY 2009 AND 2010; AMENDING THE SHORT TITLE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF BAY COUNTY; AND PROVIDING EFFECTIVE DATES FOR THIS ORDINANCE AND THE PLAN HEREBY ADOPTED .

WHEREAS, the upon unanimous recommendation of the TDC the Board has levied and imposed an additional two percent (2%) Tourist Development Tax to be collected only on transient accommodations within the greater Panama City Beaches / Mexico Beach sub-county special tax district commencing March 1, 2009, to be used to advertise and promote tourism; and

WHEREAS, collection of additional tax requires amendment and restatement of the FY 2009 and 2010 Bay County Tourist Development Plan;

One-fifth (1/5<sup>th</sup>) to be used to promote and/or advertise tourism for the benefit of Bay County, Florida, and in particular the Panama City Beach Tax District. (5<sup>th</sup> Cent)

One-fifth (1/5<sup>th</sup>) to be used to promote and/or advertise tourism for the benefit of Bay County, Florida, and in particular the Panama City Beach Tax District. (4<sup>th</sup> Cent)

One-fifth (1/5<sup>th</sup>) to be used solely for the plan, and restricted to the purposes, set forth in Ordinance No. 97-01 imposing the third cent tax, which plan and purposes are hereby reaffirmed and restated, namely that the proceeds of the third cent shall be used exclusively for construction and maintenance of a beach nourishment and renourishment program in materially the form of the engineered beach designed for the 1998-99 Panama City Beach Nourishment Project and the 2005-6 Panama City Beach Renourishment Project, including costs and expenses of engineering, construction, planning, legal, real estate acquisition, storm water improvements, financing, and other related and necessary costs and expenses. (3d cent)

One-fifth (1/5<sup>th</sup>) to be used for (i) beach maintenance and clean up within the Panama City Beach Tax District, (ii) product improvement in the Panama City Beach Tax District which promotes and/or advertises tourism and (iii) to promote and/or advertise tourism for the benefit of Bay County, Florida, and in particular the Panama City Beach Tax District. (2d cent)

One-tenth (1/10<sup>th</sup>) to be used to promote and/or advertise tourism for the benefit of Bay County, Florida, and in particular the Panama City Beach Tax District. (One-Half of the 1<sup>st</sup> Cent)

One-tenth (1/10<sup>th</sup>) to be reserved to construct or finance, in partnership with the private sector, a sports arena, sports stadium or other sports venue located on Panama City Beach and promoting and/or advertising sports tourism for the benefit of Bay County, Florida and in particular the Panama City Beach Tax District. (One-Half of the 1<sup>st</sup> Cent)

4. Proposed Use of Mexico Beach Tax Revenue.

The general uses and projects that are to be funded by the Mexico Beach tax revenue shall continue to be materially as incorporated and set forth in the original FY 2009 and 2010 Bay County Tourist Development Plan, adopted by Bay County Florida Ordinance No. 08-47, and the Additional Tax to be collected in the Mexico Beach Tax District shall be used exclusively to promote and/or advertise tourism for the benefit of Bay County, Florida, and in particular the Mexico Beach Tax District.

5. Reserves For The Panama City Beach Tax District

a) Within the Tourist Development Trust Fund, there is hereby established a Panama City Beach Reserve For Contingency Fund to be funded exclusively by tax revenues collected in the Panama City Beach Tax District and used exclusively to advertise or promote, including improvements or maintenance within and constituting advertisement or promotion of, the Panama City Beach Tax District, which shall be known as the "Panama City Beach Marketing Reserve Fund." Upon recommendation of the TDC, current revenues may, from time to time, be budgeted for transfer to this Fund. Monies on deposit in the Panama City Beach Marketing Reserve Fund shall, with the approval of the Board upon recommendation of the Tourist Development Council, be used for advertising or promotion to mitigate the effects of a natural or other disaster or unanticipated adverse event, or to address an unanticipated problem or opportunity; provided that in the absence of a natural or other disaster or unanticipated adverse event or problem, the amount of monies on deposit in the Panama City Beach Reserve Fund shall not be reduced below one million dollars (\$1,000,000.00).

b) Within the Tourist Development Trust Fund, there is hereby established a Panama City Beach Sports Marketing Capital Reserve Fund to be funded exclusively by tax revenues collected in the Panama City Beach Tax District and used exclusively to construct or finance, in partnership with the private sector, a sports arena, sports stadium or other sports venue located on Panama City Beach and promoting sports tourism for the benefit of Bay County, Florida, and in particular the Panama City Beach Tax District, which Fund shall be known as the "Panama City Beach Sports Marketing Capital Reserve Fund." One-tenth of tax

revenues collected in the Panama City Beach Tax District, and interest thereon, shall be deposited into this Fund. Upon recommendation of the TDC, current revenues may, from time to time, be budgeted for transfer to this Fund. Monies on deposit in the Panama City Beach Sports Marketing Reserve Fund shall, with the approval of the Board upon recommendation of the Tourist Development Council, be used to construct or finance, in whole or in part, and in partnership with the private sector, a sports arena, sports stadium or other sports venue located on Panama City Beach and promoting and/or advertising sports tourism for the benefit of Bay County, Florida.

6. Definition: As used in this Plan, “promote and/or advertise tourism” shall mean to promote and/or advertise tourism in the State of Florida and/or nationally and/or internationally for the benefit of Bay County, Florida, and in particular the Panama City Beach Tax District or the Mexico Beach Tax District, as applicable; providing however, that if tax revenues are expended for an activity, service, venue or event, that 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.

7. Boundaries. The boundaries of the TDC Tax District shall remain as previously established.

(End of plan.)

SECTION 3. SEVERABILITY. If any provision of this Ordinance, the Plan adopted hereby or the application of either or both thereof to any person or circumstance is held invalid, it is the intent of the Board of County Commissioners that the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

SECTION 4. INCLUSION IN CODE. It is the intention of the board of county commissioners of Bay County, Florida, and it is hereby provided that the provisions of this Ordinance shall become and be made a part of the Code of Bay County, Florida; that the word “ordinance” may be changed to “section,” “article” or other appropriate designation.

Section 5. REPEAL. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

SECTION 6. EFFECTIVE DATE. A certified copy of this Ordinance as enacted shall be filed by the Clerk of the board with the office of the Secretary of State of the State of Florida within ten (10) days after enactment, and this ordinance shall take effect in accordance with Section 125.66(2), Florida Statutes; more specifically, this Ordinance shall take effect immediately upon passage and the effective date of the Amended FY 2009 and 2010 Bay County Tourist Development Plan shall be March 1, 2009.

PASSED AND ADOPTED this 17<sup>th</sup> day of February, 2009.

BOARD OF COUNTY COMMISSIONERS  
BAY COUNTY, FLORIDA

\_\_\_\_\_  
CHAIRMAN

ATTEST:

\_\_\_\_\_  
Clerk of Court

Reviewed and Approved as to Form and Content:

\_\_\_\_\_  
Office of County Attorney