

M E M O R A N D U M

Date: April 30, 2014

TO: Town Commission

FROM: Dave Bullock, Town Manager

SUBJECT: Interlocal Agreement Between the Town of Longboat Key and Sarasota County Providing for Tourist Development Tax Disbursements to the Town of Longboat Key

On November 21, 2013 at a joint meeting between the Town and Sarasota County the topic of Tourist Development Tax was discussed. The County began using 20% of the third penny of TDT for beach maintenance to ease the burden on their General Fund. These funds pay for maintenance of beaches in the City of Sarasota, City of Venice, and Unincorporated County. Since the reallocation of these funds cover all areas of the County except Longboat Key the Town requested that the existing Interlocal Agreement be amended to allow disbursement of 20% of the third penny to the Town for beach maintenance. This allocation would continue as long as the County continues to allocate these funds to the unincorporated area.

The attached Interlocal Agreement with Sarasota County provides for allocation of these new funds in Section 4. On May 21 the Sarasota County Commission will consider this Interlocal Agreement and an amendment to the TDT Ordinance to accommodate the Town's request. Those documents are attached. The Town expects to receive approximately \$65,000 in additional beach maintenance funds.

Approval of the Interlocal Agreement between the Town of Longboat Key and Sarasota County has been placed on the May 5, 2014 Regular Meeting for Commission consideration and formal action.

SARASOTA COUNTY GOVERNMENT

Office of Financial Management

TO: Sarasota County Commission

THROUGH: Thomas A. Harmer, County Administrator

FROM: Steve Botelho, Acting Assistant County Administrator / Chief Financial Management Officer
Doreen Buonpastore, Fiscal Consultant, Office of Financial Management

DATE: May 21, 2014

SUBJECT: **Tourist Development Tax disbursement to Town of Longboat Key**

RECOMMENDED MOTION(S) OR ACTION(S):

- A. Public Hearing to consider proposed Ordinance No. 2014-039, amending Ordinance No. 87-134, as amended and codified in Chapter 114, Article III of the Sarasota County Code (the "Code"), amending Section 114-64(l) of the Code to allow for disbursement of Tourist Development Tax (TDT) to the Town of Longboat Key for the Town's collections of 20% of the First Additional 1% TDT Levy allocated for Beach Maintenance for as long as the Beach Maintenance allocation pursuant to Section 114-64(f) of the Code is in effect.
- B. (Not a Public Hearing) To adopt an Interlocal Agreement with the Town of Longboat Key, providing for the annual disbursement to the Town of the Town's annual actual TDT collections of 50% of the Initial Two Percent Levy through September 30, 2018, allocated for Beach Renourishment and, commencing October 1 2013, an annual disbursement to the Town of the Town's annual actual TDT collections of 20% of the First Additional 1% TDT Levy allocated for Beach Maintenance for as long as the Beach Maintenance allocation pursuant to Section 114-64(f) of the Code is in effect; repealing Contract No. 2008-425.

BACKGROUND:

As of FY2010, the County reallocated 20% of the First Additional 1% TDT Levy to Beach Maintenance from Beach Renourishment to alleviate General Fund funding of TDT allowable beach maintenance expenditures. TDT Beach Maintenance funds public access beaches and beach park facilities within the City of Sarasota, City of Venice and Unincorporated County. This reallocation is up for review every two years. The Board of County Commissioners (Board) has approved this reallocation through FY2015.

On September 17, 2013, the Town of Longboat Key (Town) requested Board consideration for receipt of the Town's collection of 20% of the First Additional 1% TDT Levy for Beach Maintenance, as the County does not maintain the public access beaches in the Town of Longboat Key. The Board approved proceeding with the necessary steps to accomplish the Town's request.

On November 21, 2013, the Tourist Development Council unanimously recommended for approval the Town's request to the Board.

On September 10, 2008, the Board approved the Town of Longboat Key's allocation of TDT for the Town's collections of 1/3 of the 3% TDT Levy, which had been in effect for ten fiscal years (FY1998-FY2008), for continuation through FY2018. This allocation is required to be used for beach renourishment purposes.

An Interlocal Agreement providing for an additional disbursement of the Town's collection of 20% of the First Additional 1% TDT Levy for Beach Maintenance, effective as of FY2014, is included for Board approval.

RELEVANT PRIOR BOARD ACTION:

1. 6-12-09 - Revised the TDT (for Beach Renourishment) from 70 to 50 percent and reallocated the 20 percent for Beach Maintenance or Capital Improvements and requested to bring back a report for reconsideration in two years prior to review of the Budget. (5-0 vote)
2. 5-25-11 - Approved a two-year extension of the review date for the reallocation of TDT revenues for Beach Maintenance from October 1, 2011, to October 1, 2013. (5-0 vote)
3. 4-24-13 – Adopted Ordinance No. 2013-014 to provide for review of the allocation of 20 percent of the First Additional 1% TDT Levy for Beach Maintenance every two years. (5-0 vote)
4. 9-17-13 - Approved proceeding with necessary steps to allocate 20 percent of the third penny of the Tourist Development Tax collected in the Town of Longboat Key to the Town of Longboat Key for beach maintenance in the County's portion of the Town of Longboat Key. (5-0 vote)
5. 9-10-08 – Approved Contract No. 2008-425, Interlocal Agreement with the Town of Longboat Key, relating to the continuation of the TDT allocation to the Town of Longboat Key through September 30, 2018. (5-0 vote)

ANALYSIS:

In FY1998, when the Town's Interlocal Agreement initially went into effect, the TDT Levy was 3% and allocated 50% for Beach Maintenance/Renourishment. In FY2014, the TDT Levy is 5% of which 50% of the Initial 2% Levy (equals 1% Levy) is allocated for Beach Maintenance/Renourishment distributed to County and Municipalities based on population. The Municipalities use their distribution for Beach Renourishment purposes. The Town's Beach Maintenance/Renourishment revenue distribution based on population is disproportionate (FY2014 Budget \$38,825) compared to the Town's collections of 1% Levy (FY2012 Collections/FY2014 Disbursement \$324,132), which is the basis for the Interlocal Agreement.

For FY2014 (based on FY2012 collections), the Town of Longboat Key would receive \$64,826 for the Town's collection of 20% of the First Additional 1% Levy allocated for Beach Maintenance.

The Town will be required to document the use of these funds for Beach Maintenance of public access beaches within Sarasota County prior to disbursement of the funds. This disbursement will be in addition to the disbursement the Town currently receives for Beach Renourishment purposes. This additional disbursement to the Town for Beach Maintenance purposes will discontinue if 20% of the First Additional TDT 1% Levy allocation for Beach Maintenance is repealed by the Board.

RECOMMENDATIONS:

On November 21, 2013, the Tourist Development Council unanimously recommended for approval the Town's request for TDT Beach Maintenance funding.

FUNDING SOURCE:

Tourist Development Tax 20% of First Additional 1% Levy allocated for Beach Maintenance (TDT Fund 103).

ATTACHMENTS:

- 1) Notice of Public Hearing
- 2) Ordinance 2014-039
- 3) 2014 Interlocal Agreement

**INTERLOCAL AGREEMENT
BETWEEN THE TOWN OF LONGBOAT KEY
AND SARASOTA COUNTY
REGARDING DISBURSEMENT OF TOURIST DEVELOPMENT TAX REVENUES**

THIS INTERLOCAL AGREEMENT is made this _____ day of _____, 2014 by and between the Town of Longboat Key, Florida, a Florida municipal corporation organized and existing under the laws of the State of Florida (the "Town") and Sarasota County, Florida, a political subdivision of the State of Florida (the "County").

WHEREAS, pursuant to Section 125.0104, Florida Statutes, the Board of County Commissioners (the "Board") adopted Ordinance No. 87-134, as amended, as codified in Chapter 114, Article III of the Sarasota County Code (the "Code") establishing a Tourist Development Tax ("TDT") levy within the boundaries of Sarasota County, including all municipalities; and

WHEREAS, initially, the TDT levy was two percent (2%) of statutorily-authorized revenues, which levy was subsequently increased in increments to the present five percent (5%) levy; and

WHEREAS, disposition of the TDT revenues is established pursuant to the Board-approved Tourist Development Plan (the "Plan"), which is set forth in Section 114-64 of the Code; and

WHEREAS, pursuant to the Plan, fifty percent (50%) of the Initial Two Percent Levy of TDT is allocated to Beach Maintenance, Beach Restoration, Beach Renourishment, and Beach Erosion Control and maintenance of beach park facilities and is available only to those governmental entities with posted public beaches and beach accesses on a population-based formula, provided, however, any municipality that collects 15 percent or greater of the total annual TDT revenues shall receive a minimum distribution of \$150,000 in the subsequent fiscal year; and

WHEREAS, the Plan further provided that for the ten fiscal years beginning October 1, 1998 and ending September 30, 2018, the annual disbursement of TDT revenues to the Town will equal the Town's annual actual total TDT collections of fifty percent (50%) of the Initial Two Percent Levy, as determined by the Sarasota County Tax Collector for the fiscal year prior to the year in which the budget is prepared, payable from the Initial Two Percent Levy pursuant to the Plan and, the balance, if any, from the First Additional One Percent Levy allocated for Beach Renourishment; and

WHEREAS, the Town and County entered into an Interlocal Agreement, dated September 10, 2008, memorializing the Tourist tax disbursement for beach renourishment to the Town of Longboat Key set forth in Section 114-64(l) of the Code; and

WHEREAS, effective October 1, 2009, Section 114-64(f) of the Code was amended to allocate twenty percent (20%) of the First Additional One Percent Levy to Beach Maintenance, subject to the review by the Board every two years (“Additional Beach Maintenance Allocation”); and

WHEREAS, subsequently, the Town requested that commencing with the fiscal year beginning October 1, 2013, disbursements to the Town be increased for the Town’s collection of the Additional Beach Maintenance Allocation for as long as the Additional Beach Maintenance Allocation is in effect; and

WHEREAS, on September 17, 2013, the Board approved an additional disbursement of TDT revenues to the Town for Beach Maintenance equal to the Town’s annual actual total TDT collections of twenty percent (20%) of the First Additional One Percent Levy allocated for Beach Maintenance, as determined by the Sarasota County Tax Collector for the fiscal year prior to the year in which the budget is prepared, payable from twenty percent (20%) of the First Additional One Percent Levy allocated for Beach Maintenance.

NOW, THEREFORE, for and in consideration of the mutual covenants and obligations set forth herein, the Town and the County agree as follows:

1. The recitals set forth above are incorporated herein in their entirety.
2. All capitalized terms shall have the meaning set forth in Section 114-64 of the County Code.
3. The County will annually disburse to the Town during the ten (10) fiscal years beginning October 1, 2008 and ending September 30, 2018, a sum equal to the Town's annual actual TDT collections of fifty percent (50%) of the Initial Two Percent Levy (the “Town Beach Renourishment Disbursement”), as determined by the Sarasota County Tax Collector for the fiscal year prior to the year in which the budget is prepared (the ten fiscal years beginning October 1, 2006 and ending September 30, 2016, respectively). The Town’s disbursement will be funded as follows: the TDT allocation from the Initial Two Percent Levy pursuant to Section 114-64(d)(1) of the Code and, as needed, a portion of the First Additional One Percent Levy allocated for Beach Renourishment, to be expended for beach renourishment uses only.
4. The County will annually disburse to the Town for the fiscal year beginning October 1, 2013 for the duration of the Additional Beach Maintenance Allocation, a sum equal to the Town's annual actual TDT collections of twenty percent (20%) of the First Additional One Percent Levy allocated for Beach Maintenance (the “Town Beach Maintenance Disbursement”), as determined by the Sarasota County Tax Collector for the fiscal year prior to the year in which the budget is prepared (beginning October 1, 2011). The Town Beach Maintenance Disbursement will be funded from twenty percent (20%) of the First Additional One Percent Levy allocated for Beach Maintenance, pursuant to Section 114-64(f) of the code.

5. The Town shall forego any other requests to the County for disbursements of TDT during the term of this Interlocal Agreement. The Town will certify to the County, by September 30 of each fiscal year, annual expenditures for the Town's Beach Renourishment program within Sarasota County, and in accordance with the Code. The Town will certify to the County, by September 30 of each fiscal year for which it is to receive the Town Beach Maintenance Disbursement, the expenditures by the Town for Beach Maintenance uses within Sarasota County, as that term is defined in the County Code.

6. Either party shall have the right to terminate this Interlocal Agreement upon not less than 365 days written notification to the other. The effective date of termination shall be on the first day of the County's fiscal year after the required notice period.

7. All notices required hereunder shall be by first class mail, except that any Notice of Termination shall be mailed return receipt requested. Any notice hereunder shall be addressed to the party intended to receive same at the following addresses:

To the Town:

David R. Bullock, Town Manager
Town of Longboat Key Town Hall
501 Bay Isles Road
Longboat Key, Florida 34228

To the County:

Thomas A. Harmer, County Administrator
Sarasota County Administration Center
1660 Ringling Blvd.
Sarasota, FL 34236

8. This Agreement repeals and replaces that certain "Interlocal Agreement Between the Town of Longboat Key and Sarasota County Regarding Allocation of Tourist Development Tax Revenues", dated September 10, 2008 (Contract No. 2008-425). The parties acknowledge, one to the other, that the terms hereof constitute the entire understanding and agreement of the parties with respect hereof. No modification hereof shall be effective unless in writing and executed with the same formalities as this Interlocal Agreement is executed.

9. This Agreement shall take effect upon filing of a duly executed original with the Clerk of the Circuit Court of Sarasota County and the Clerk of the Circuit Court of Manatee County.

IN WITNESS WHEREOF, the parties hereto have caused their respective representatives to execute this Interlocal Agreement on the dates set forth below.

**BOARD OF COUNTY COMMISSIONERS OF
SARASOTA COUNTY, FLORIDA**

By: _____
Charles D. Hines,
Chair

ATTEST:
KAREN E. RUSHING,
Clerk of Circuit Court and Ex-Officio Clerk
of the Board of County Commissioners of
Sarasota County, Florida

By: _____
Deputy Clerk

Approved as to form and correctness:

By: _____
County Attorney

TOWN OF LONGBOAT KEY, FLORIDA

By: _____
Jack G. Duncan,
Vice Mayor

ATTEST:

By: _____
Town Clerk

Approved as to form and correctness:

By: _____
Town Attorney

ORDINANCE NO. 2014 – 039

AN ORDINANCE OF SARASOTA COUNTY, FLORIDA, AMENDING ORDINANCE NO. 87-134, AS AMENDED, AS CODIFIED IN CHAPTER 114, ARTICLE III OF THE SARASOTA COUNTY CODE, RELATING TO THE TOURIST DEVELOPMENT TAX LEVIED PURSUANT TO SECTION 125.0104, FLORIDA STATUTES; AMENDING SECTION 114-64(l) OF THE CODE RELATING TO THE DISBURSEMENT OF TOURIST DEVELOPMENT TAX REVENUES TO THE TOWN OF LONGBOAT KEY; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SARASOTA COUNTY, FLORIDA:

SECTION 1. This Ordinance hereby amends Ordinance No. 87-134, as amended, as codified in Chapter 114, Article III, of the Sarasota County Code (the "Code"). In this Ordinance, new text is indicated by underlining and deleted text is indicated by ~~strike-through~~.

SECTION 2. Sections 114-64(l) of the Code are hereby amended to read as follows:

Sec. 114-64. Tourist development plan.

* * * * *

(d) Tourist tax revenues from the Initial Two Percent Levy authorized by section 114-61(a) herein and F.S. § 125.0104(3)(c) shall be allocated as provided in this subsection:

(1) Fifty percent of the annual revenues generated by the Initial Two Percent Levy shall be allocated to Beach Maintenance, Beach Restoration, Beach Renourishment, and Beach Erosion Control for beaches and maintenance of beach park facilities. Such tourist tax revenues will be available only to those governmental entities with posted public beaches and beach accesses. The distribution of tax revenues for beaches will be determined using the same formula presently in effect for distribution of gas revenues, which is population based. Notwithstanding this formula, any municipality that has establishments within its boundaries that cumulatively collect 15 percent or greater of the total annual tourist tax revenue shall receive a minimum distribution of \$150,000.00 in the subsequent fiscal year. Any shortfall between the gas tax formula distribution to such municipality and the \$150,000.00 shall be contributed by Sarasota County from the beach allocation distributed to unincorporated Sarasota County.

* * * * *

(e) For purposes of section 114-64 the term "Beach Maintenance" shall mean any activity necessary to maintain a clean and safe beach, public beach park, public beach access. Specific uses of the Beach Maintenance allocation set forth in this section 114-64 include:

(1) Removal of litter and trash, addition of trash receptacles, installation of beach mats to ensure public ADA access.

- (2) Maintenance and purchase of beach maintenance equipment (e.g., tractors, surf rakes, vehicles, all terrain vehicles, loaders, dump trucks, hand tools and implements).
- (3) Maintenance of and improvements to beach structures, including restroom facilities, picnic shelters, pavilions, lifeguard structures, decks, sidewalks, irrigation, dune and revetment walkovers, fencing, and maintenance facilities and construction or purchase of maintenance buildings and sheds (exclusive of concession areas leased to private operators, parking lots and utility costs).
- (4) Clearing of vegetative obstructions to shoreline access, removal of nuisance/invasive vegetation and wildlife, removal of beach shoreline obstructions; beach cleaning and grooming to remove wrack line debris (e.g., red drift algae, dead fish).
- (5) Informational signage and maintenance related to events programming to ensure that a clean and safe beach, public beach park, or public beach access is maintained.

This section shall supersede all other previously adopted Board policies with respect to use of TDT revenues for Beach Maintenance.

- (f) The expenditure of revenue from the First Additional One Percent Levy imposed pursuant to Section 114-61(b) and F.S. § 125.0104(3)(d) shall be allocated seventeen and one-half percent to advertising/promotion, fifty percent to Beach Renourishment, Beach Restoration and Beach Erosion Control, twenty percent to Beach Maintenance, and twelve and one-half percent to tourism capital projects and events that attract new visitors, provided however, the allocation shall be utilized solely for promotion pursuant to Section 114-64(j) through May 1, 2013. The Beach Maintenance allocation under this subsection, effective October 1, 2009, shall be reviewed by the Board every two years.

The following definitions shall apply to this Section 114-64:

- (1) Beach Restoration includes the addition of sand to control beach erosion; the removal of shoreline obstructions and shoreline armoring that may interfere with natural coastal processes; restoration of coastal ecosystems through the removal of invasive/nuisance plants and/or wildlife and/or planting of appropriate native vegetation; restoration of native coastal dunes, wetland or coastal hammock habitat.
- (2) Beach Renourishment is the process of replenishing a beach with sand. It may be brought about naturally by longshore transport along the shoreline, or artificially by the deposition of dredged or mined materials.
- (3) Beach Erosion Control is any means to control the wearing away of a shoreline by natural or man-made processes. Examples of beach erosion control include nourishment; creation and/or planting of a dune or other native coastal habitat; coastal armoring such as a bulkhead, rock revetment, soil-cement revetment; installation of a groin, geo-textile tube, sand bypass system, or other such technology; dune and revetment walkovers; the use of best management practices to control siltation.

* * * * *

- (1) ~~Tourist tax allocation-disbursements~~ to the Town of Longboat Key. For the 20 fiscal years beginning October 1, 1998, and ending September 30, 2018, the annual ~~allocation disbursement~~ of tourist development tax proceeds to the Town of Longboat Key will equal ~~one-third~~ of the Town's annual actual total tourist tax collections of fifty percent of the Initial Two Percent Levy ~~and the First Additional One Percent Levy~~, as determined by the Sarasota County Tax Collector for the fiscal year prior to the year in which the budget is prepared (the 20 fiscal years beginning October 1, 1996, and ending September 30, 2016, respectively) for beach renourishment use. ~~Such~~ The annual allocation disbursement for beach renourishment will be funded as follows: from the tourist development tax revenue allocation to the Town of Longboat Key from the Initial Two Percent Levy, pursuant to section 114-64(d)(1) herein, and, as needed, a portion of the First Additional One Percent Levy allocated for beach renourishment, pursuant to Section 114-64(f) herein; (levied on April 1, 1997) limited to beach renourishment. In addition, for the fiscal year beginning October 1, 2013, the Town of Longboat Key will receive the Town's annual actual tourist tax collections of twenty percent of the First Additional One Percent Levy allocation for Beach Maintenance, as determined by the Sarasota County Tax Collector for the fiscal year prior to the year in which the budget is prepared (fiscal year beginning October 1, 2011) for beach maintenance use. The annual disbursement for beach maintenance will be paid and funded from the tourist development tax revenue allocation of twenty percent of the First Additional One Percent Levy for Beach Maintenance for as long as that allocation is in effect pursuant to Section 114-64(f) herein.

SECTION 3. SEVERABILITY

If any provision of this article or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or applications. To this end, the provisions of this article are declared severable.

SECTION 4. EFFECTIVE DATE.

This Ordinance shall take effect upon filing with the Florida Department of State.

PASSED AND DULY ADOPTED by the Board of County Commissioners of Sarasota County, Florida, this _____ day of _____, 2014.

**BOARD OF COUNTY
COMMISSIONERS OF SARASOTA
COUNTY, FLORIDA**

By: _____
Chair

ATTEST:

KAREN E. RUSHING, Clerk of Circuit Court and Ex-Officio Clerk of the Board of County Commissioners of Sarasota County, Florida

By: _____
Deputy Clerk



End of Agenda Item