


COMMISSION AGENDA:

11.19.13 #24a.

TO: The Honorable Chairman and Members of the
Board of County Commissioners

FROM: James L. Bennett, County Attorney 

SUBJECT: Authority to Advertise a Public Hearing on a Proposed Ordinance Levying
a One Percent Charter County and Regional Transportation System Surtax
Subject to Referendum Approval

DISTRIBUTION: Robert S. LaSala, County Administrator

DATE: November 19, 2013

RECOMMENDATION: I RECOMMEND THAT THE BOARD OF COUNTY COMMISSIONERS AUTHORIZE THE ADVERTISEMENT OF A PUBLIC HEARING ON A PROPOSED ORDINANCE LEVYING A ONE PERCENT CHARTER COUNTY AND REGIONAL TRANSPORTATION SYSTEM SURTAX SUBJECT TO REFERENDUM APPROVAL.

DISCUSSION: As provided by law, each charter county in Florida is authorized to levy a discretionary sales surtax of up to one percent for regional transportation improvements ("Surtax") upon approval by a majority vote of the electorate of the county. The Board of County Commissioners ("Board") previously adopted Resolution No. 13-19 declaring its intent to place a referendum question of the November 4, 2014 ballot seeking approval of a levy of the Surtax, and at its November 5, 2013 workshop provided direction on the proposed Surtax levy.

The attached proposed ordinance levies the Surtax at the rate of one percent until repealed or reduced by ordinance for countywide public transit uses, including expanded bus service, bus rapid transit, and future passenger rail service, subject to referendum approval. The ordinance schedules the referendum on November 4, 2014, establishes the permitted uses of the proceeds, authorizes the proceeds to be shared with the PSTA, and provides the ballot title and question. I recommend the Board of County Commissioners authorize the advertisement of a public hearing on this ordinance for Tuesday, December 10, 2013, at 6 p.m.

JLB:DRL:sme

Attachment

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ORDINANCE NO. 14- _____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PINELLAS COUNTY LEVYING THE CHARTER COUNTY AND REGIONAL TRANSPORTATION SYSTEM SURTAX SUBJECT TO ELECTOR APPROVAL AT A RATE OF ONE PERCENT; ESTABLISHING THE EFFECTIVE DATE OF THE SURTAX; PROVIDING FOR ADMINISTRATION, COLLECTION, AND ENFORCEMENT OF THE SURTAX; PROVIDING FOR THE DISTRIBUTION, USE AND FINANCIAL MANAGEMENT OF SURTAX PROCEEDS; CALLING FOR A REFERENDUM ELECTION FOR APPROVAL OF IMPOSITION OF THE SURTAX; PROVIDING A BALLOT TITLE AND SUMMARY OF THE PROPOSED REFERENDUM QUESTION; PROVIDING FOR NOTICE OF THE REFERENDUM ELECTION; PROVIDING FOR NOTICE TO BE GIVEN TO THE DEPARTMENT OF REVENUE; PROVIDING FOR INCLUSION IN THE PINELLAS COUNTY CODE; PROVIDING FOR OTHER MODIFICATIONS THAT MAY ARISE AT THE PUBLIC HEARING AND WITH RESPONSIBLE AUTHORITIES; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Sections 212.054 and 212.055(1), Florida Statutes (the “Acts”) authorize certain counties in Florida, including charter counties, to levy a discretionary sales surtax referred to as the “Charter County and Regional Transportation System Surtax” (“Surtax”) subject to elector approval; and

WHEREAS, the Board of County Commissioners (“Board”) previously declared its intent in Resolution No. 13-19 to place a referendum question on the November 4, 2014 ballot seeking approval of a levy of up to one percent Surtax to fund countywide transportation projects; and

WHEREAS, the Pinellas Suncoast Transit Authority (“PSTA”), a transportation authority created by a special act to purchase, own and/or operate transit facilities within Pinellas County has developed a plan for the planning, development, construction, operation, maintenance and financing of public transit countywide with regional connections, which includes expanded bus service and rapid bus transit with increased frequency and extended

hours, and future passenger rail service, commonly referred to as the "Greenlight Pinellas Plan;" and

WHEREAS, the revenues generated by the Surtax are needed to fund the planning, development, construction, maintenance and operation of any fixed guideway and/or bus system and related costs or to fund the repayment of any bonds which may be issued for those purposes; and

WHEREAS, it is the intent of Board to levy the Surtax at a rate of one percent (1%) pursuant to the provisions contained in the Acts as provided herein; and

WHEREAS, pursuant to Chapter 163, Florida Statutes, and the Acts, the Board is authorized and intends to enter into an Interlocal Agreement with the PSTA to establish with specificity the use of Surtax revenues by PSTA for the implementation of the Greenlight Pinellas Plan (the "Interlocal Agreement"); and

WHEREAS, the implementation of the Greenlight Pinellas Plan in its totality is, in part, contingent upon the receipt of funding from sources other than the Surtax; and

WHEREAS, the use of Surtax revenues for the repayment of bonds issued to construct those transit facilities is appropriate and permissible in accordance with the Acts; and

WHEREAS, the Board finds that the levy of the Surtax is in the best interests of Pinellas County, Florida and its citizens and is necessary to sufficiently fund needed transportation improvements throughout the County.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PINELLAS COUNTY, FLORIDA, in a meeting duly assembled this ____ day of _____, 2013, that:

Section 1. Incorporation of Recitals.

The above findings and recitals are hereby incorporated herein and made a part of this Ordinance.

Section 2. Imposition and Levy of the Charter County and Regional Transportation System Surtax.

(a) There is levied and imposed by Pinellas County, the Charter County and Regional Transportation System Surtax authorized by Section 212.055(1), Florida Statutes, at a rate of one percent (1%) on transactions taxable pursuant to Section 212.054, Florida Statutes, subject to the approval of a majority of the electors of Pinellas County voting in a referendum election called for the purpose of determining whether such Surtax should be levied.

(b) The levy of the Surtax, if approved by a majority of the electors as required by paragraph (a) shall be limited to the purposes set forth in this Ordinance and shall take effect January 1, 2016, until repealed by ordinance approved by a majority vote of the Board.

(c) In the event the required state and/or federal funding necessary to implement the Greenlight Pinellas Plan in its totality is not timely received, and the portion of the Greenlight Pinellas Plan related to a fixed guideway rapid transit system is rendered financially infeasible as a result thereof, the Board may by ordinance reduce the amount of the levy from one percent (1%) to an amount the Board determines, in consultation with PSTA, sufficient to fund the expansion of the bus service and bus rapid transit, including regional connections. Alternatively, the Board may by ordinance repeal the Surtax as provided in subsection (b) herein.

Section 3. Administration, Collection and Enforcement.

The Florida Department of Revenue shall have all responsibility for the administration, collection, and enforcement of the Surtax levied pursuant to this Ordinance.

Section 4. Distribution, Use and Financial Management of Surtax Proceeds.

(a) The Surtax shall be collected by the Department of Revenue and distributed monthly to Pinellas County ("County"). The County shall deposit the proceeds into the Transportation System Surtax Trust Fund, which fund is hereby created, to be held by the Pinellas County Clerk of the Circuit Court and Comptroller ("Clerk") solely for the benefit and distribution in accordance with the terms of this ordinance and any interlocal agreements providing for the distribution of Surtax proceeds.

(b) Any Surtax proceeds distributed after receipt in accordance with the Interlocal Agreement shall be used by PSTA solely for the planning, development, construction, expansion, operation, and maintenance of PSTA's present and future bus service, including expanded bus service and bus rapid transit, with increased frequency and extended hours of operation, and fixed guideway rapid transit service, with regional connections, and for the payment of the principal and interest on bonds or other obligations or indebtedness, or refinancing such bonds or other obligations, issued or incurred for such transit improvements, as authorized by the Acts and pursuant to subsection (c) herein.

(c) The issuance of bonds or other indebtedness pledging the Surtax proceeds shall be subject to the approval of the Board.

Section 5. Conduction of Referendum Election.

The Board hereby calls a referendum election and directs the Pinellas County Supervisor of Elections to conduct such election in conjunction with the General Election on November 4, 2014, for the submission of a referendum question to the electors of Pinellas County to determine whether a majority of electors voting in the election are in favor of the levy

of the Surtax on transactions occurring within Pinellas County and provided by law. Reasonable costs associated with conducting said election shall be paid by the County.

Section 6. Ballot Title and Summary.

(a) In accordance with the Acts, and Section 101.161, Florida Statutes, the following ballot title and summary are approved for submission to the electors of Pinellas County, Florida, for approval or rejection by a majority of the electors voting in the referendum election scheduled for November 4, 2014. The official ballot shall be in substantially the following form:

Title: Levy of One Percent Sales Surtax to Fund Greenlight Pinellas Plan for Countywide Public Transit.

Summary: Shall Pinellas County levy a countywide one percent sales surtax from January 1, 2016, until repealed or reduced by county ordinance to plan, develop, construct, operate, maintain and finance public transit countywide with regional connections, including expanded bus service, bus rapid transit, and future passenger rail service?

_____ FOR the 1% sales surtax

_____ AGAINST the 1% sales surtax

Section 7. Notice of Election.

The Clerk shall publish notice of the referendum in accordance with Section 100.342, Florida Statutes.

Section 8. Notice to the Department of Revenue and Department of State.

Upon completion of the referendum election called for in this Ordinance, the results of such election shall be certified in accordance with Chapter 100 and Chapter 102, Florida Statutes, to the Department of State. If it is determined upon certification of the results that the majority of the electors of Pinellas County voting in the referendum election are in favor of the levy of the Surtax, the Clerk shall, within ten (10) days of such certification, submit a copy of this

Ordinance and the certification of the election results to the Florida Department of Revenue. The Clerk shall also provide notice to the Department of Revenue pursuant to Section 212.054(7)(b), Florida Statutes.

Section 9. Severability.

If any section, subsection, sentence, clause, phrase, or provision of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such holding shall not be construed to render the remaining provisions of this Ordinance invalid or unconstitutional.

Section 10. Inclusion in the Pinellas County Code.

The provisions of this Ordinance shall be included and incorporated in the Pinellas County Code, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Pinellas County Code.

Section 11. Filing of Ordinance; Effective Date.

In addition to the notices to the Department of Revenue as provided herein, and pursuant to Section 125.66, Florida Statutes, a certified copy of this Ordinance shall be filed with the Department of State by the Clerk within ten (10) days after the enactment by the Board. This Ordinance shall become effective upon filing of the Ordinance with the Department of State.

APPROVED AS TO FORM
OFFICE OF COUNTY ATTORNEY

By  Attorney