



Office of

Public Hearing 12/12/2023

# INDIAN RIVER COUNTY ATTORNEY

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## MEMORANDUM

**To:** Members of the Board of County Commissioners

**Through:** John A. Titkanich Jr., County Administrator and  
Kristin Daniels, Director, Office of Management & Budget

**Date:** December 6, 2023

**From:** William K. DeBaal, County Attorney

**Subject:** Amendment to Indian River Code Chapter 210 Tourist Development Tax

### Description and Conditions

On August 29, 2023, the Board of County Commissioners approved an ordinance amendment to add an additional cent of to the County's Tourist Development Tax.

Prior to the ordinance amendment, the County levied four cents of Tourist Tax. Those four cents were split amongst three funds. The Beach Restoration Fund received 1 5/6<sup>th</sup> cents, the Tourism Development Fund received 1 2/3<sup>rd</sup> cents, and the Jackie Robinson Training Complex (JRTC) Fund received one-half of a cent. The County had planned to levy what is referred to as the "sixth cent", which would be the fifth cent of Tourist Tax levy for the County. Unbeknown to County staff, FS §125.0104, which addresses Tourist Tax spending, was amended late in last year's legislative session to add a requirement that increases in local Tourist Taxes must be approved by voters at a general election. That change became effective on July 1, 2023, while the County's "sixth cent" addition was approved on August 29, 2023 without the required referendum. Thus, the County must repeal the provision in the County Code that adds the additional "sixth cent" of Tourist Tax.

However, in the August 29, 2023 ordinance amendment, the Board approved a change to how the four cents was allocated. The following table illustrates the allowable uses for each cent per the statute.

Eligible Usage Categories	1 <sup>st</sup> or 2 <sup>nd</sup>	3 <sup>rd</sup>	4 <sup>th</sup>
Sports Stadium Maintenance/Capital	X	X	
Sports Stadium Capital	X	X	X
Tourism Promotion	X	X	X
Beach Restoration	X	X	

### Beach Restoration Fund History

The Beach Restoration Fund (Fund) receives the largest allocation of Tourist Tax revenue totaling 1 5/6<sup>th</sup> cents, or \$1,897,362, for this fiscal year. Revenue for this Fund is also derived from Federal Emergency Management Agency (FEMA) grants, Florida Department of Environmental Protection (FDEP) grants,

insurance proceeds, and other miscellaneous revenues, as qualifying events occur. Even though the Fund receives revenues from multiple sources, the Fund has a negative fund balance of approximately \$4M, with \$14.3M in reimbursable grants owed to the County. Thus, the Board decided to increase the allotment of Tourist Tax dollars to beach renourishment by decreasing the amount of Tourist Tax allocated to the Jackie Robinson Training Complex fund from one half cent to one-quarter of a cent. The reduction will still generate \$258,750 which sufficiently covers the maintenance portion of the County's lease obligation (\$200,000). The Board directed that the remaining \$154,188 be funded from Optional Sales Tax revenues. This freed up that one-quarter of a cent, or \$258,750, to be allocated to the Beach Restoration Fund, which brings the total fiscal year 2023/24 Tourist Tax portion of the fund's budget to \$2,156,112. The allocations of Tourist Tax revenues are now distributed as follows:

Eligible Usage Categories	1 <sup>st</sup> or 2 <sup>nd</sup>	3 <sup>rd</sup>	4 <sup>th</sup>	Total
Sports Stadium	0.25			<b>0.25</b>
Tourism Promotion	0.67		1.0	<b>1.67</b>
Beach Restoration	1.08	1.0		<b>2.08</b>
<b>Total</b>	<b>2.0</b>	<b>1.0</b>	<b>1.0</b>	<b>4.0</b>

The attached Ordinance Amendment removes the "sixth cent" but retains the above fund allocations.

#### **Future Allocation – 6<sup>th</sup> Cent**

As mentioned previously, the County has the ability to levy what is referred to as the "sixth cent", but the levy must be approved by referendum at a general election. The next general election will take place in November 2024. In order to qualify for that election, the final referendum must be submitted to the Indian River County Supervisor of Elections by August 14, 2024. The title of the referendum can be no longer than 15 words and the body of the referendum no longer than 75 words. The County Attorney's office will coordinate with the Supervisor's office to place the needed referendum on the November ballot.

**Funding:** Although there is no change from the four cents that has previously, and will continue to be collected, a budget amendment is necessary to reflect the budgetary adjustment down to four cents since the levy of an additional cent was included in the approved 2023/24 budget.

#### **Recommendation**

Staff recommends the Board conduct the Public Hearing on the proposed ordinance amendment, take testimony from interested parties, approve the proposed amendment repealing the "sixth cent" of Tourist Tax, but retain the reallocation of funds, and authorize the Chairman to execute the amendment on behalf of the Board.

#### **Attachment**

Proposed Ordinance Amendment