

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: March 19, 2008 - MAR Division County Attorney

Bulk Item: Yes No Staff Contact Person: Suzanne Hutton

AGENDA ITEM WORDING:

Approval to advertise a public hearing for an Ordinance to impose a ninth-cent local option motor and special fuel ("gas") tax.

ITEM BACKGROUND:

The County imposes a six-cent local option gas tax on motor fuel. The State mandates a County fuel tax on diesel fuel under FS 206.87 and the County gets a portion of that from the State. At the November 14, 2007 meeting of the BOCC, discussion was held concerning the depletion of the County's gas tax reserves due to increased costs, the state legislature's limitations on ad valorem taxation, and the inability of the County to continue to service the road and bridge system and to conduct critical renovations for bridges nearing their 50-year life span. Options were provided to the BOCC to increase the gas tax or to levy special assessments. The BOCC directed staff to pursue the gas tax increase.

PREVIOUS RELEVANT BOCC ACTION:

Ordinance No. 16-1989 approving extension of the six-cent "gas" tax authorized by F.S. 336.025(1)(a).
12/19/2007 (Q-13) BOCC tabled to 2/20/2008 BOCC
2/20/2008 (P-2) BOCC denied request to hold Public Hearing

CONTRACT/AGREEMENT CHANGES:

N/A

STAFF RECOMMENDATIONS:

Approval.

TOTAL COST: _____

BUDGETED: Yes No

COST TO COUNTY: None

SOURCE OF FUNDS: N

REVENUE PRODUCING: Yes No

AMOUNT PER MONTH _____ **Year** \$500,000

APPROVED BY: County Atty OMB/Purchasing _____ Risk Management _____

DOCUMENTATION: Included Not Required _____

DISPOSITION: _____

AGENDA ITEM # _____

ORDINANCE NO. - 2008

AN ORDINANCE IMPOSING A "NINTH-CENT" LOCAL OPTION MOTOR FUEL TAX, AS AUTHORIZED BY F.S. 206.41(1)(d) AND 336.021, UPON SUCH FUEL SALES IN ALL OF MONROE COUNTY, INCLUDING THE MUNICIPALITIES THEREIN, FOR A PERIOD OF THIRTY YEARS UNLESS EARLIER REPEALED BY THE BOARD OF COUNTY COMMISSIONERS; PROVIDING FOR A METHOD OF COLLECTION OF THE TAX AND REMISSION OF THE PROCEEDS; PROVIDING THAT THE PROCEEDS MAY ONLY BE SPENT FOR TRANSPORTATION EXPENDITURES AS DEFINED HEREIN; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES INCONSISTENT HERewith; PROVIDING FOR INCORPORATION INTO THE MONROE COUNTY CODE OF ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Florida Statute Section 206.41(1)(d) authorizes counties to impose a tax of one cent per net gallon on motor fuel, known as the "ninth-cent" fuel tax to be levied and used as provided in F.S. 336.021; and

WHEREAS, Florida Statute Section 206.87(1)(b) mandates a "ninth-cent" fuel tax to be levied on diesel fuel, to be levied and distributed according to F.S. 336.025; and

WHEREAS, the County has been receiving from the State a distribution of the mandate fuel tax on diesel fuel; and

WHEREAS, current gas tax expenditures cover Maintenance, Engineering, Street Lights and Traffic Signal, distribution to municipalities, 7-year plan and cost allocation;

WHEREAS, the gas tax fund balance has been steadily declining since FY 2001 due to annual expenditures exceeding annual revenues; and

WHEREAS, Monroe County maintains 389 miles of roads in the unincorporated county and resurfaces those roads as needed;

WHEREAS, there are 28 bridges in the unincorporated county which are maintained by the County and most of those bridges were built in the 1960s with a 50 year life span; and

WHEREAS, there are approximately 10 years left with no funds available for major renovations necessary to extend the useful lives of the bridges which are maintained by the County;

WHEREAS, drainage systems need to be added or restored, requiring reconstruction and resurfacing of roads; and

WHEREAS, road resurfacing has been temporarily delayed in some areas of the unincorporated county due to new sewer systems and resurfacing will be needed in the near future; and

WHEREAS, the County is seeking to enact an ordinance imposing an additional five (5) cents local option fuel tax to generate approximately \$250,000.00 per penny (or \$1,250,000.00) per year; and

WHEREAS, an additional ninth-cent local option fuel tax on motor fuel is needed to provide funding, particularly for the renovations of the bridges and other critical major renovations of roads; and

WHEREAS, an additional ninth-cent local option fuel tax on motor fuel can be accomplished by a majority plus one vote of the BOCC or by an ordinance creating a referendum on the November 2008 ballot; and

WHEREAS, implementation of an additional gas tax will spread the costs to both residents and visitors using the County's roads as opposed to special assessments which would place the full burden on County residents; and

WHEREAS, unless a revenue source additional to the existing local option fuel tax can be secured, the current level of services will have to be reduced and the delay for needed road restorations and reconstructions and necessary revitalization of bridges will continue; now therefore

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS for MONROE COUNTY, FLORIDA that:

SECTION 1. Section 2-321, Monroe County Code is hereby created to read:

2-321. NINTH-CENT MOTOR FUEL TAX.

(a) IMPOSITION. Under the authority of F.S. 336.021(1)(A), effective January 1, 2009, there is hereby imposed a one cent gas tax, to be designated the "ninth-cent fuel tax," upon every gallon of motor fuel sold in the County and taxed under the provisions of part I or part II of Chapter 206, Fla.Stat.

(b) COLLECTION. The tax in this section shall be collected and remitted according to the procedure in F.S. 336.021.

(c) EFFECTIVE PERIOD. The tax levied in Section 2-321 shall commence on January 1, 2009, and be in effect for a period of thirty (30) years, unless repealed by the Board of County Commissioners, provided that no repeal shall in any circumstances materially or adversely affect the rights of the holders of bonds backed by the tax and outstanding on the effective date of the repeal.

(d) EXPENDITURES. The proceeds of the tax shall only be used for transportation expenditures as defined by Florida Statute Section 336.025(7) and which are:

- (1) Public transportation operations and maintenance;
- (2) Roadway and right-of-way maintenance and equipment and structures used primarily for the storage and maintenance of such equipment;
- (3) Roadway and right-of-way drainage;

- (4) Street lighting;
- (5) Traffic signs, traffic engineering, signalization and pavement markings;
- (4) Bridge maintenance and operation;
- (5) Debt service and current expenditures for transportation capital projects in
the foregoing program areas.

SECTION 4. SEVERABILITY. Should any provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this Ordinance as whole, or any part thereof, other than the part declared to be invalid. If this ordinance or any provision thereof shall be held to be inapplicable to any person, property or circumstances, such holding shall not affect its applicability to any other person, property or circumstances.

SECTION 5. CONFLICT WITH OTHER ORDINANCES. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of said conflict.

SECTION 6. INCLUSION IN THE CODE OF ORDINANCES. The provisions of this Ordinance shall be included and incorporated in the Code of Ordinances of the County of Monroe, Florida, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the code.

SECTION 7. EFFECTIVE DATE. This Ordinance shall take effect on _____, provided that this Ordinance shall be filed with the Department of State as provided in section 125.66(2), Florida Statutes.

SECTION 8. FILING CERTIFIED COPY WITH STATE. In addition to filing a copy of this Ordinance with the Department of State, the Clerk shall notify the Florida Departments Environmental Protection and Revenue of the adoption of the ordinance, including providing certified copies of the ordinance thereto, within ten days after the adoption of the ordinance.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida, at a regular meeting of said Board held on the ___th day of _____, 2008.

Mayor Charles "Sonny" McCoy	—
Mayor Pro Tem Mario DiGennaro	—
Commissioner Sylvia Murphy	—
Commissioner George Neugent	—
Commissioner Dixie M. Spehar	—

(SEAL)
Attest: DANNY L. KOLHAGE, Clerk

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By _____
Deputy Clerk

By _____
Mayor/Chairperson

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:
Suzanne A. Hutton
SUZANNE A. HUTTON
COUNTY ATTORNEY
Date 12/04/07

**NOTICE OF INTENTION TO CONSIDER
ADOPTION OF COUNTY ORDINANCE**

NOTICE IS HEREBY GIVEN TO WHOM IT MAY CONCERN that on Wednesday, April 16, 2008 at 3:00 P.M., or as soon thereafter as may be heard, at the Harvey Government Center, 1200 Truman Avenue, Key West, Monroe County, Florida, the Board of County Commissioners of Monroe County, Florida, intends to consider the adoption of the following County ordinance:

AN ORDINANCE IMPOSING A "NINTH-CENT" LOCAL OPTION MOTOR FUEL TAX, AS AUTHORIZED BY F.S. 206.41(1)(d) AND 336.021, UPON SUCH FUEL SALES IN ALL OF MONROE COUNTY, INCLUDING THE MUNICIPALITIES THEREIN, FOR A PERIOD OF THIRTY YEARS UNLESS EARLIER REPEALED BY THE BOARD OF COUNTY COMMISSIONERS; PROVIDING FOR A METHOD OF COLLECTION OF THE TAX AND REMISSION OF THE PROCEEDS; PROVIDING THAT THE PROCEEDS MAY ONLY BE SPENT FOR TRANSPORTATION EXPENDITURES AS DEFINED HEREIN; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES INCONSISTENT HEREWITH; PROVIDING FOR INCORPORATION INTO THE MONROE COUNTY CODE OF ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

Pursuant to Section 286.0105, Florida Statutes, notice is given that if a person decided to appeal any decision made by the Board with respect to any matter considered at such hearings or meetings, he will need a record of the proceedings, and that, for such purpose, he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

ADA ASSISTANCE: If you are a person with a disability who needs special accommodations in order to participate in this proceeding, please contact the County Administrator's Office, by phoning (305) 292-4441, between the hours of 8:30 a.m. - 5:00 p.m., no later than 2 working days prior to the scheduled meeting; if you are hearing or voice impaired, call "711".

Dated at Key West, Florida, this 19th day of March, 2008.

DANNY L. KOLHAGE, Clerk of the Circuit Court
and ex officio Clerk of the Board of County
Commissioners of Monroe County, Florida

(SEAL)

Publication dates:

Reporter (Fr) 3/28/2008
Keynoter (Sa) 3/29/2008
KW Citizen (Su) 3/30/2008