

**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 five-cent local option motor and special fuel ("gas") tax; to clarify the statutory authority for the existing six-cent "gas" tax, and to revise the distribution language for the existing "gas" tax since municipalities have incorporated since the prior ordinance was enacted.

ITEM BACKGROUND:

In 1983, the County imposed a four-cent "gas" tax, and imposed an additional two-cent tax in 1985 which were combined into the current six-cent tax in 1989. 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 exceeding the gas tax revenues in the last few years, the state legislature's limitations on ad valorem taxation precluding drawing upon that source to make up any shortfall, 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 as authorized by F.S. 336.025(1)(b) 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-14) BOCC tabled to 2/20/2008 BOCC
2/20/2008 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** _____

APPROVED BY: County Atty OMB/Purchasing Risk Management

DOCUMENTATION: Included Not Required

DISPOSITION: _____ **AGENDA ITEM #** _____

ORDINANCE NO. – 2008

AN ORDINANCE CLARIFYING THE STATUTORY AUTHORITY FOR THE CURRENT SIX CENT MOTOR AND SPECIAL FUEL TAX IN SECTION F.S. 336.025(1)(a); PROVIDING FOR THE DISTRIBUTION OF THE SIX CENT MOTOR AND SPECIAL FUEL TAX TO ALL MUNICIPALITIES AND THE COUNTY; IMPOSING A FIVE CENT LOCAL OPTION MOTOR AND SPECIAL FUEL TAX, AS AUTHORIZED BY F.S. 336.025(1)(b), 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FUEL SALES IN ALL OF MONROE COUNTY, INCLUDING THE MUNICIPALITIES THEREIN, FOR A PERIOD OF THIRTY YEARS UNLESS EARLIER REPEALED BY THE BOARD OF COUNTY COMMISSIONERS; PROVIDING FOR A METHOD OF COLLECTION OF THE TAX AND REMISSION OF THE PROCEEDS; PROVIDING THAT THE PROCEEDS MAY ONLY BE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 THE PLEDGE OF THE TAX REVENUE FOR BONDS WHOSE PROCEEDS ARE USED FOR TRANSPORTATION CAPITAL PROJECTS; 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, Monroe County currently imposes a six-cent local option gas tax upon every gallon of motor fuel and special fuel sold in the County pursuant to Florida Statute Section 336.025(1)(a) and Monroe County Code Section 2-315, et. seq.; and

WHEREAS, the municipalities of Islamorada and Marathon incorporated subsequent to the passage of Ordinance No. 16-1989, as codified in Monroe County Code Section 2-315, et. seq.; 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, an additional five (5) cents local option fuel tax would generate approximately \$250,000.00 per penny (or \$1,250,000.00) per year; and

WHEREAS, an additional local option fuel tax 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 is secured, the current level of services will have to be reduced and delays for 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 2-315, Monroe County Code shall be amended to read:

2-315. Under the authority of Florida Statutes section 336.025(1)(a), effective September 1, 1989, there is hereby imposed a six-cent gas tax upon every gallon of motor and special fuel sold in Monroe County, including the municipalities therein, and taxed under the provisions of part I or part II of chapter 206, Florida Statutes.

SECTION 2. Section 2-319, Monroe County Code shall be amended to read:

Sec. 2-319. Distribution of proceeds.

(a) The proceeds of the tax levied in section 2-315 shall be distributed among Monroe County, the City of Islamorada, the City of Key West, the City of Key Colony Beach, and the City of Layton, and the City of Marathon based on interlocal agreements or F.S. 336.0255 absent interlocal agreements. ~~the transportation expenditures of each for the immediately preceding five (5) fiscal years, as a proportion of the total of such expenditures for Monroe County and the three (3) municipalities, to wit:~~

- ~~Monroe County . . . 62%~~
- ~~City of Key West . . . 35%~~
- ~~City of Key Colony Beach . . . 2%~~
- ~~City of Layton . . . 1%~~

(b) ~~The proportions set forth above shall be recalculated in 1990 according to the method set forth in F.S. section 336.025(a)(1) [336.025(3)(a)1]. However, if no interlocal agreements are entered into with the various municipalities by June 1, 1990, the Monroe County Board of County Commissioners shall recalculate the proportions according to the method set forth in F.S. section 336.025(4)(a), by July 1, 1990.~~

(eb) ~~No recalculation made under subsection (b) of this section~~ of the tax distribution shall under any circumstances adversely affect the rights of holders of bonds outstanding on July 1, 1990, which are backed by the tax authorized by this article; and the amounts distributed to Monroe County and each municipality shall not be reduced below the amount necessary for the payment of principal and interest and reserves for principle interest as required under the covenants of any bond resolution outstanding on July 1, 1990.

SECTION 3. Section 2-320, Monroe County Code is hereby created to read:

2-320. SEVENTH THROUGH ELEVENTH CENT MOTOR AND SPECIAL FUEL TAX.

(a) IMPOSITION. Under the authority of F.S. 336.025(1)(b), effective January 1, 2009, there is hereby imposed a five cent gas tax upon every gallon of motor fuel and special 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. 336.025(2).

(c) EFFECTIVE PERIOD. The tax levied in Section 2-320(a) 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 state statute and which are:

(1) Roadway and right-of-way reconstruction, renovation, resurfacing, paving of existing graded roads, and equipment;

(2) Roadway and right-of-way drainage;

(3) Installation of street lighting and traffic signs, traffic engineering, signalization and pavement markings;

(4) Bridge renovation, restoration, and repaving;

(5) Debt service for transportation capital projects, including construction or reconstruction of roads and bridges. The revenues from the tax levied in section 2-320(a) may be pledged to secure the payment of bonds. In the event such bonds are to be issued, the county or the municipalities may use the services of the Division of Bond Finance of General Services pursuant to the State Bond Act to issue any bonds under the provisions of this article and F.S. section 336.025(b). Bonds may be issued only once per year. Monroe County and any of the municipalities listed in section 2-320(e) may join together to issue bonds under this article; or

(6) All other purposes allowed by state statute.

(e) DISTRIBUTION TO MUNICIPALITIES. The County may, at anytime, enter into an interlocal agreement with any or all of the municipalities in the County in order to provide for the distribution of the tax proceeds between the County and the municipality or municipalities.

No tax proceeds distributed to a municipality may be used for purposes other than those described in Section 2-320(d) above. The proceeds of the tax levied in section 2-320(a) shall be distributed among Monroe County, the City of Islamorada, the City of Key West, the City of Key Colony Beach, the City of Layton, and the City of Marathon, pursuant to interlocal agreements or F.S. 336.0255.

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 _____ By _____ Deputy Clerk
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 CLARIFYING THE STATUTORY AUTHORITY FOR THE CURRENT SIX CENT MOTOR AND SPECIAL FUEL TAX IN SECTION F.S. 336.025(1)(a) PROVIDING FOR THE DISTRIBUTION OF THE SIX CENT MOTOR AND SPECIAL FUEL TAX TO ALL MUNICIPALITIES AND THE COUNTY; IMPOSING A FIVE CENT LOCAL OPTION MOTOR AND SPECIAL FUEL TAX, AS AUTHORIZED BY F.S. 336.025(1)(b), 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 THE PLEDGE OF THE TAX REVENUE FOR BONDS WHOSE PROCEEDS ARE USED FOR TRANSPORTATION CAPITAL PROJECTS; 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) 3/30/2009