

Leon County Board of County Commissioners

Cover Sheet for Agenda #13

April 8, 2014

To: Honorable Chairman and Members of the Board

From: Vincent S. Long, County Administrator 

Title: Approval to Advance the Board's Direction on Projects Relating to the One Cent of Tourist Development Taxes, Currently Dedicated to the Performing Arts Center, for Consideration by the Community Redevelopment Agency

County Administrator Review and Approval:	Vincent S. Long, County Administrator
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator
Lead Staff/ Project Team:	Ken Morris, Director of Economic Development & Business Partnerships

Fiscal Impact:

Pending final Board direction and agreement with the City and Community Redevelopment Agency (CRA), this item addresses the utilization of 1) the existing \$4.1 million performing arts tourist development tax balance; 2) the annual recurring one-cent tourist development tax dedicated to a performing arts center; and, 3) the reimbursement of \$508,425 utilized for the demolition of the Johns Building.

Staff Recommendation:

Board direction.

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Report and Discussion

Background:

In recent months, the Board has taken up a number of issues that have been overlapping in nature that may have competing, and possibly conflicting, timelines and policy implications.

At the Board's annual retreat in December 2013, the Board directed the County Administrator to work with Florida State University (FSU) on the Civic Center District Master Plan to include the potential partnership to realize the convention center space desired by the County and to bring back issues related to the County's financial and programming roles and participation for future Board consideration. The actions taken by the Board at its retreat were ratified at the January 21, 2014 meeting.

Additionally, on January 21, 2014, the Board approved a course of action and general sequence for proceeding on these matters to ensure that the Board has the best information upon which to make decisions given some of the duplicative financial and policy implications associated with these issues (Attachment #1).

On February 11, 2014, the Board held a workshop to review the Cultural Plan Review Committee's final report and recommendations (Attachment #2). Following presentations by members of the Cultural Plan Review Committee and County staff, the Board reaffirmed its preliminary direction from the workshop on October 29, 2013 to dedicate a full one cent of Tourist Development Tax (TDT) to culture in FY 2015 utilizing a portion of the penny currently dedicated to the performing arts center(s). In addition, the Board provided guidance to the Council on Cultural Arts (COCA) in anticipation of its FY 2015 budget request to assume County support in the amount of \$1,050,000 (\$150,000 from general revenue and \$900,000 from TDT funds).

Also on February 11, 2014, the Board conducted a workshop to review the Sales Tax Committee's recommendations and identify projects to be included in the tax extension (Attachment #3). Included in the Board's actions is a tentative approval to consider \$20 million for the Madison Mile Convention District. A special meeting of the Intergovernmental Agency has been scheduled for April 22, 2014 to provide the City and County Commissions the opportunity to finalize the project list in anticipation of placing the referendum on the November 4, 2014 ballot.

On March 11, 2014, the Board provided direction to staff to provide additional information regarding Ms. Peggy Brady's request for a small performing arts theatre to be developed and considered in this agenda item.

As outlined in the January 21, 2014 agenda item, subsequent to the Board's February workshops on the Cultural Plan and Sales Tax, the County Administrator was to bring back an agenda item reconciling all Board actions and to seek Board approval of any modifications to previous direction prior to moving forward to the Community Redevelopment Agency (CRA)..

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Analysis:

1. Community Redevelopment Agency Related to the Tourist Development Tax

Leon County currently collects all five cents of the TDT allowable under section 125.0104, Florida Statutes. Four of the five cents are used to fund the Tourist Development Plan and one cent is set aside, by Interlocal Agreement with the City and CRA, in an account dedicated for a performing arts center(s) in the downtown district of the CRA (Attachment #4). During the October 29, 2013 Workshop on the Future Uses for the One Cent of TDT Currently Dedicated to a Downtown Performing Arts Center, the Board acknowledged the substantial likelihood that the proposed performing arts center(s) led by Florida Center for Performing Arts and Education would not be realized given the lack of adequate private financial support and strong opposition by the Sales Tax Committee (Attachment #5). In addition, the latest extension of the Florida Center for Performing Arts and Education's option agreement with the City for the Johns Building site had expired a month prior to the workshop, on September 30, 2013, due to their inability to meet fundraising benchmarks.

During the October 29, 2013 workshop, the Board authorized the County Administrator to take the necessary steps to return the encumbered balance (approximately \$4.1 million presently) set aside for the downtown performing arts center(s) back into the Tourist Development Tax Trust Fund pursuant to the Interlocal Agreement. The Interlocal Agreement contemplates the possibility of a performing arts center(s) not being constructed and, under said circumstances, returning the accrued funds back to the Tourist Development Tax Trust Fund without the dissolution or renegotiation of the Interlocal Agreement. This requires the City and CRA to formally acknowledge that the performing arts center(s) is no longer a viable pursuit under the terms of the agreement, which also requires other funding sources to provide for the majority of the costs as part of the agreement. Additionally, the Board approved seeking a reimbursement for the \$508,425 in TDT funds spent on the demolition and clearing of the Johns Building site for the proposed performing arts center(s). However, an amendment to the Interlocal Agreement would be recommended to effectuate change for use of the recurring TDT funds.

Should the recurring funds currently dedicated to the performing arts center(s) become available, the Board provided preliminary direction to utilize approximately half of those recurring TDT funds to increase its financial support of the arts. This action was affirmed by the Board through the support of the Cultural Plan implementation. Combined with the County's current investment, this would result in a full cent of TDT funds dedicated to the cultural arts.

The Board's direction included maintaining the current re-granting funding levels, creating a capital grants program for cultural organizations, and identifying other cultural community funding needs in accordance with Florida Statutes for the use of TDT funds. The attached memorandum was prepared in response to a request of the Cultural Plan Review Committee. Specifically, the memorandum notes:

In short Florida Statute 125.0104(a)(1) limits the use of TDT funds to publicly owned and operated convention centers, sports stadiums, sports arenas, coliseums, or auditoriums, and likewise specifically permits the expenditure of TDT funds for museums and zoological parks that are owned and operated by not-for-profit organizations and open to the public, as an exception to the general requirement that facilities by publically owned to be eligible for use of such funds. (See, AGO 00-25, April 26, 2000).

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The additional funding would increase the County's TDT investment in culture by approximately \$400,000 annually, or 78%. However, this increase cannot be effectuated until the Board meets with the CRA and City Commission on the reallocation of TDT currently dedicated to the performing arts center(s). If successful, the County's projected budget for cultural arts in FY 2015 would be approximately \$1,050,000.

2. FSU Madison Mile Convention District

At the Board's invitation, former FSU President Eric Barron presented the University's master plan for the Madison Mile Convention District at the Board's retreat. Following the presentation, the Board elevated this project as one of its strategic initiatives and directed the County Administrator to work with FSU in identifying a potential partnership to realize the convention center space desired by the County (Attachment #6). The County Administrator was directed to bring back his findings related to the County's financial and programmatic roles and participation for the Board's consideration.

As previously mentioned, both Commissions have approved the FSU Madison Mile Convention District in the amount of \$20 million as part of the economic development portion of the sales tax extension. The Board was clear in its deliberations on the \$20 million allocation that the project must be further developed before a final determination can be made and formal agreements are executed with the Intergovernmental Agency (IA) in order to provide these sales tax funds for construction. County and City staff have been participating in the early stages of the master planning process with FSU's consultant team and the County Administrator has been in regular contact with FSU's leadership team following the departure of former President Barron. During this period of transition at FSU, the FSU Madison Mile Convention District project will continue to be led by the president's office at FSU.

Near the completion of the master plan for the FSU Madison Mile Convention District, FSU will engage in a competitive qualification solicitation process to identify prospective hoteliers or developers to construct and operate a full service hotel and convention center on the Civic Center site. FSU has also expressed a willingness to explore the potential of incorporating some dual-purpose functionality into these projects that would take into consideration the community's desire for a performing arts theater. To be clear, FSU has not made any commitments on this issue and is unable to do so at this juncture of the project, but is willing to consider it.

To successfully attract qualified respondents for the construction and operation of a full service hotel and convention center, FSU is seeking the County's commitment of a ½-cent of TDT funds for the successful operation and maintenance of the convention center. Public financing for the construction and operation of convention centers is very common, particularly in Florida, which specifically authorizes the use of TDT funds for such purposes. The CRA explored this issue from 2010-2012 with the help of a consultant to determine the market conditions for a hotel and convention center. The CRA elected to not move forward on the project to identify potential developers at that time citing the expensive construction and operating costs. Instead, the CRA directed staff to explore options that would reduce construction and operating costs.

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The proposed partnership with FSU on the Madison Mile Convention District offers the potential of a privately constructed full service hotel at no cost to local taxpayers and the construction of a convention center with limited exposure of local resources, up to \$20 million, as tentatively agreed upon by the County and City Commissions for the sales tax extension. The initial annual operating deficit of \$1.8 projected by HVS Consulting in 2011 could be mitigated by constructing a slightly smaller venue, the colocation of other successful entertainment and conference venues such as the Civic Center and Turnbull Center, and the relocation of the School of Hospitality which would infuse an abundance of talented and cheap labor for the operation of both the hotel and convention center. That being said, the County's financial support of convention space, through both sales tax funds and/or TDT revenues, must ensure that the facility has the capacity to generate county-wide conventions/conferences and events to support multiple existing hotels, restaurants, and attractions.

Similar to the Board's desire to increase funding for cultural arts, the ability to support this request without a significant impact on the County's visitor marketing program requires the City and CRA to relinquish the one cent of TDT currently dedicated to the performing arts center(s) under the Interlocal Agreement. The FY 2015 revenue projection for a ½-cent of the TDT is approximately \$450,000. While FSU is seeking a commitment from the County at this time in order to proceed with this project, TDT funds would not be needed until the convention center nears operation, which could be at least several years away. This could provide the Board an interim period of several years to utilize a ½-cent of TDT for tourism-related investments until the convention center is operational or the funds could be accumulated for the future operational needs of the facility.

3. Downtown Theatre Project on College Avenue

On February 24, 2014, Ms. Peggy Brady submitted a proposal for a Downtown Theatre project located adjacent to the Governor's Club on College Avenue that would operate as a year round facility (Attachment #7). The proposal calls for the Downtown Theatre to be a professional producing theatre similar to the Hippodrome Theatre in Gainesville. The estimated total cost of this facility from present condition to completion is estimated at \$2.5 - \$3.2 million, which is inclusive of all design and construction costs, acquisition, theatre outfitting costs and the beginning of an operating endowment.

This project had previously been initiated by Mr. Mike Sheridan and his willingness to donate \$1 million toward a small performing arts center with the caveat that another group assist with the project development. Ms. Elise Judelle and Ms. Brady are serving as Project Managers for the Downtown Theatre and indicate that other private individuals and businesses have expressed an interest in supporting the Theatre. The proposal seeks \$1.5 million in construction costs from the \$4.1 million of TDT revenues set aside for a downtown performing arts center(s) under the terms of the Interlocal Agreement with the City and CRA and \$300,000 annually for operations. Based on the documents submitted to the County, this project appears to still be very much in the conceptual phase and will require additional information for further consideration.

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The TMH Foundation currently owns the proposed site and building so the acquisition, title, construction, and long-term maintenance would need to be determined prior to any financial commitments. At the Board's request, Facilities staff performed a preliminary analysis in May 2013 that estimated a maximum seating capacity of approximately 250 people for a one-story theatre with the possibility of additional balcony seating. A pro forma or some other level of market analysis would be needed to understand the financial parameters of the Theatre and to attract additional private sector investors.

In light of this new proposal for a performing arts venue in the downtown area that could be eligible for use the existing funds, the Board may wish to revisit its prior direction from October 29, 2013 seeking that all of these funds be returned to the County. Instead, the Board may wish to explore this proposal further as part of the April 24, 2014 CRA meeting agenda. The Board's level of support and potential financial commitment for this project may help determine its position on what to do with the \$4.1 million of TDT funds currently set aside for the performing arts center(s). For example, the Board may wish to maintain the \$4.1 million set aside for the performing arts center(s) under the current terms and conditions, thereby providing a potential funding source for the Downtown Theatre Project. Following construction, the remaining balance could be utilized as an endowment to support operating costs.

Another funding option to support this project would be to provide the \$300,000 in operating support from the Board's proposal to increase cultural investments to a full cent of TDT. However, this would negate much of the recent Cultural Plan efforts, as it would limit the 'new money' available for other priorities identified in the Plan including the capital grants program.

As noted in the County Attorney's memorandum (Attachment #8), for the downtown theater project being discussed to receive TDT funds for capital improvements and/or operating expenditures, it must be owned and operated by the public (this could be implemented through a service contract and lease); similar to the investment made at the amphitheater.

Given the need for additional information on this proposal and the potential support from both Commissions, the Board may wish to agenda this matter at the CRA meeting. Should both Commissions wish to pursue this further, staff recommends that consideration for financial support with TDT funds be limited to the encumbered funds set aside for the performing arts center(s). Alternatively, the Board may wish to reach an agreement with the City/CRA on how to reallocate the \$4.1 million for some other purpose in accordance with Florida Statutes for use of such funds.

Summary and Options

The confluence of the Board's actions at the October 29, 2013 workshop on TDT and the performing arts center, the Cultural Plan Review Committee's report, the sales tax extension including the FSU Madison Mile Convention District, and potentially a Downtown Theatre have presented an opportunity for the Board to evaluate a number of overlapping and competing projects in a short period of time and chart a course of action to invest resources in key community projects. This item seeks the Board's guidance to address these matters with the City Commission at the next CRA meeting on April 24, 2014 at 9:30 a.m.

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Should the Board wish to address these TDT matters with the CRA and City, an amendment to the interlocal agreement between the County, City, and CRA would be required to implement the following:

1. Direct staff to prepare an agenda item for consideration to amend the Interlocal Agreement at the April 24, 2014 CRA meeting that addresses the following:
 - a. The CRA would maintain the \$4.1 million fund balance (plus what is collected through September 30, 2014) set aside for the performing arts center(s) under the current terms and conditions, which includes recommendations being subject to final approval by the County and City. Projects that may be considered include, but are not limited to:
 - i. The proposed Downtown Theatre Project on College Avenue.
 - ii. Performing arts space as part of convention center project.
 - iii. Or, other performing arts projects as recommended by the CRA.
 - b. The City is provided three years to make improvements of the Capital City Amphitheater and/or Meridian Building for the purpose(s) requested by the County in an amount equal to the \$508,425 utilized for the demolition of the Johns Building; any balance not utilized during this period of time will be reimbursed to the County's Tourist Development Trust Fund.
 - c. A formal acknowledgement that effective September 30, 2014, all future one cent TDT currently dedicated to the performing arts center(s) shall no longer be dedicated for such purpose and shall be retained by the County to be utilized in accordance with Florida Law.

With regard to the Cultural Plan implementation, staff recommends the Board continue to implement utilizing approximately ½-cent currently dedicated to the performing arts center(s) toward the overall support of the cultural and arts community through the establishment of the new capital grants program and other community needs identified in the Cultural Plan consistent with section 125.0104, Florida Statutes. This action results in one full cent of TDT tax being dedicated to the cultural arts or in increase of 78%. Upon the approval of the amendment to the Interlocal Agreement, staff recommends that the Board:

2. Direct staff to schedule a Public Hearing to amend the Tourism Plan (Ordinance) to allocate a total of one cent of TDT to support cultural arts starting in FY 2015.

If the sales tax extension is approved and the Madison Mile Convention Center project is funded, then a ½ cent of tourist development tax will be necessary to support the on-going operations and maintenance of the facility. Given a number of milestones need to be reached prior to the facility being constructed and opened, the Board may wish to provide the following direction:

3. Upon approval of the sales tax extension, direct the County Administrator to negotiate a preliminary agreement, subject to Board approval, with FSU and/or the appropriate parties for a ½ cent of the tourist development tax to be utilized for the operation and maintenance of the convention center based on the following:
 - a. Begin dedicating the ½-cent of TDT for the convention center beginning in FY 2015.

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- b. Utilize the ½-cent TDT for tourism-related expenses until such time the convention center is operational.

The suggestion presented herein seeks to strike a balance between desired community projects and available resources by maintaining the existing fund balance for a performing arts center(s) and utilizing future TDT revenues for other community efforts. Under all of the same terms and conditions of the interlocal agreement, the CRA would continue to have the ability to utilize the \$4.1 fund balance (plus revenues received through September 30, 2014) for a variety of performing arts center needs in the downtown area. This approach would allow the County to increase cultural funding with TDT monies from \$504,500 to approximately \$900,000 annually starting in FY 2015. These additional funds would be used to support the implementation of community needs identified in the Cultural Plan including a capital grants program. Should the Board choose to support the operational and maintenance needs of the convention center, this option affords the desired flexibility to determine the appropriate timing of that financial support as the project details and time line materialize.

The amendment to the interlocal agreement will be structured to provide certainty to the process by which the existing fund balance and the recurring penny will be allocated. Until these actions are taken, the ongoing one cent dedicated to a performing arts center(s) will remain in effect thereby prohibiting the reallocation of these future revenues for other projects or programs.

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Options:

1. Direct staff to prepare an agenda item for consideration to amend the Interlocal Agreement at the April 24, 2014 CRA meeting that addresses the following:
 - a. The CRA would maintain the \$4.1 million fund balance (plus what is collected through September 30, 2014) set aside for the performing arts center(s) under the current terms and conditions, which includes recommendations being subject to final approval by the County and City. Projects that may be considered include, but are not limited to:
 - i. The proposed Downtown Theatre Project on College Avenue.
 - ii. Performing arts space as part of convention center project.
 - iii. Or, other performing arts projects as recommended by the CRA.
 - b. The City is provided three years to make improvements of the Capital City Amphitheater and/or Meridian Building for the purpose(s) requested by the County in an amount equal to the \$508,425 utilized for the demolition of the Johns Building; any balance not utilized during this period of time will be reimbursed to the County's Tourist Development Trust Fund.
 - c. A formal acknowledgement that effective September 30, 2014, all future one cent TDT currently dedicated to the performing arts center(s) shall no longer be dedicated for such purpose and shall be retained by the County to be utilized in accordance with Florida Law.
2. Direct staff to schedule a Public Hearing to amend the Tourism Plan (Ordinance) to allocate a total of one cent of TDT to support cultural arts starting in FY 2015. (Note: This can only occur subsequent to the amendment to the Interlocal Agreement being approved.)
3. Upon approval of the sales tax extension, direct the County Administrator to negotiate a preliminary agreement, subject to Board approval, with FSU and/or the appropriate parties for a ½ cent of the tourist development tax to be utilized for the operation and maintenance of the convention center based on the following (Note: This can only occur subsequent to the amendment to the Interlocal Agreement being approved.):
 - a. Begin dedicating the ½-cent of TDT for the convention center beginning in FY 2015.

Or

 - b. Utilize the ½-cent TDT for tourism-related expenses until such time the convention center is operational.
4. Board direction.

Recommendation:

Board direction.

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Attachments:

1. January 21, 2014 providing the general sequence and time lines for the Board to consider several overlapping projects.
2. Ratification of the February 11, 2014 Workshop on the Cultural Plan Review Committee's Final Report and Recommendations.
3. Ratification of the February 11, 2014 Workshop on the Sales Tax Committee's Final Report.
4. First Amendment to the Interlocal Agreement with the City and CRA, October 4, 2007.
5. Ratification of the October 29, 2013 Workshop on the Future Uses for the One Cent of Tourist Development Tax Currently Dedicated to a Downtown Performing Arts Center.
6. Leon County's Strategic Initiatives.
7. Downtown Theatre proposal submitted by Ms. Peggy Brady.
8. County Attorney Memorandum.

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(County Administrator/Economic Development & Business Partnerships/Tourism Development)

- **Speakers:**
 - Curtis Baynes stated that it would be prudent for the Board to look at alternatives. He mentioned the conceptual project at Northwood Center.
 - Bob Inzer expressed strong support to continue the One Cent Tourist Development Tax for a performing arts theater. He distributed a letter addressing several issues raised against the Performing Arts Center.
- **Commissioner Maddox moved, seconded by Commissioner Desloge, to approve**
Options #1a, 1b, 1c, #2, and #3b:
 1. **Direct staff to prepare an agenda item for consideration to amend the Interlocal Agreement at the April 24, 2014 CRA meeting that addresses the following:**
 - a. **The CRA would maintain the \$4.1 million fund balance (plus what is collected through September 30, 2014) set aside for the performing arts center(s) under the current terms and conditions, which includes recommendations being subject to final approval by the County and City. Projects that may be considered include, but are not limited to:**
 - i. **The proposed Downtown Theatre Project on College Avenue.**
 - ii. **Performing arts space as part of convention center project.**
 - iii. **Or, other performing arts projects as recommended by the CRA.**
 - b. **The City is provided three years to make improvements to the Capital City Amphitheater and/or Meridian Building for the purpose(s) requested by the County in an amount equal to the \$508,425 utilized for the demolition of the Johns Building; any balance not utilized during this period of time will be reimbursed to the County's Tourist Development Trust Fund.**
 - c. **A formal acknowledgement that effective September 30, 2014, all future one cent TDT currently dedicated to the performing arts center(s) shall no longer be dedicated for such purpose and shall be retained by the County to be utilized in accordance with Florida Law.**
 2. **Direct staff to schedule a Public Hearing to amend the Tourism Plan (Ordinance) to allocate a total of one cent of TDT to support cultural arts starting in FY 2015. (Note: This can only occur subsequent to the amendment to the Interlocal Agreement being approved.)**

3. Upon approval of the sales tax extension, direct the County Administrator to negotiate a preliminary agreement, subject to Board approval, with FSU and/or the appropriate parties for a ½ cent of the tourist development tax to be utilized for the operation and maintenance of the convention center based on the following (Note: This can only occur subsequent to the amendment to the Interlocal Agreement being approved.):

b. Utilize the ½-cent TDT for tourism-related expenses until such time the convention center is operational.

- Commissioner Dailey stated that he could not support the motion, though he supports the convention center through the sales tax extension. He added that he supports the community theater being proposed and mentioned that there is an opportunity to partner with community leaders to make this happen.
- Commissioner Desloge pointed out that the agenda item memorializes a number of meetings held over the past year. He remarked that there is an opportunity to partner with FSU. The County can have an impact on convention center.
- Commissioner Proctor asked where the funds (\$4.1 million) would go.
 - County Administrator Vincent Long responded that the option presented is to allow the funds to be used for performing arts in downtown CRA; the CRA would provide programmatic guidelines for the funds.
- Commissioner Proctor asked if this is time-sensitive. He noted that the performing arts center project was not supported by Sales Tax Committee and was not recommended. He added that he would like to see tourist development tax money go to something local and does not want the CRA to be source to spend the money.
- Commissioner Dozier expressed concern on how the \$4 million funds would be spent and would like clarification on the Agreement.
- Commissioner Dailey made a substitute motion, seconded by Commissioner Proctor, to place this issue on CRA agenda and then open up to holding a CRA workshop, including those County Commissioners who are not sitting on CRA.

The substitute motion failed 3-4, with Commissioners Desloge, Lindley, Maddox, and Sauls opposed.

The original motion passed 4-3, with Commissioners Dailey, Dozier, and Proctor opposed. *

(For additional information on Agenda Item #13, please visit the County's website at <http://cms.leoncountyfl.gov/>)