

VILLAGE OF NORTH PALM BEACH AGENDA

**WORKSHOP SESSION
COUNCIL CHAMBERS**

**THURSDAY, FEBRUARY 9, 2017
AFTER REGULAR SESSION**

David B. Norris
Mayor

Doug Bush
Vice Mayor

Darryl C. Aubrey
President Pro Tem

Robert A. Gebbia
Councilmember

Mark Mullinix
Councilmember

Samia Janjua
Interim Village Manager

Leonard Rubin
Village Attorney

Melissa Teal
Village Clerk

1. ROLL CALL

2. NEW BUSINESS


- a. **INFRASTRUCTURE SURTAX OVERSIGHT COMMITTEE** Discussion, input and guidance regarding a draft Resolution creating the Village of North Palm Beach Infrastructure Surtax Oversight Committee.

REMARKS _____

3. ADJOURNMENT

This agenda represents the tentative agenda for the scheduled meeting of the Village Council. Due to the nature of governmental duties and responsibilities, the Village Council reserves the right to make additions to, or deletions from, the items contained in this agenda.

**VILLAGE OF NORTH PALM BEACH
OFFICE OF THE VILLAGE ATTORNEY**

TO: Honorable Mayor and Council
FROM: Samia Janjua, Interim Village Manager 
DATE: February 9, 2017
SUBJECT: **WORKSHOP – Resolution establishing the Village of North Palm Beach Infrastructure Surtax Oversight Committee**

On November 8, 2016, Palm Beach County voters approved a one-cent sales surtax, raising the sales tax from 6 to 7% effective January 1, 2017. Section 212.055(2)(d), Florida Statutes, restricts the use of surtax proceeds to, among other things, the financing, planning and construction of infrastructure. Infrastructure is defined as fixed capital expenditures or outlays associated with the construction, reconstruction or improvement of public facilities and the purchase of vehicles and other equipment that have a life expectancy of more than five years. The surtax sunsets on December 31, 2026, unless repealed earlier in accordance with the Palm Beach County Code.

In accordance with Section 17-494 of the County Code, the County, the School District and each municipality must provide for the creation of a Citizen Oversight Committee to provide for citizen review of the expenditure of surtax proceed. A municipality may either participate in an Oversight Committee created by the Palm Beach County League of Cities or create its own Committee. The Village Council has elected to create its own Committee.

The attached draft Resolution creates the required Infrastructure Surtax Oversight Committee. In accordance with the terms of the Resolution:

- The Committee shall consist of five members with staggered terms (the initial terms of three members shall expire on April 30, 2019 and the initial terms of two members shall expire on April 30, 2020). Thereafter, the members shall serve terms of two years.
- The duties of the Committee are to determine whether the Village's expenditure of the surtax proceeds meets the statutory requirements and is consistent with the Village's approved project list, as may be amended by the Village Council.
- The Committee shall elect a chairperson and vice chairperson annually and shall meet monthly or at a greater or lesser frequency as determined by the Committee.
- The Village Manager shall serve as staff liaison and shall, in coordination with the chairperson, establish the meeting agenda.

- The Committee shall compile an annual report on the expenditures during the prior fiscal year by December 31st. The Committee shall also provide a final report prior to completing its duties.
- Village Staff shall provide necessary support services to the Committee.
- The Committee shall automatically “sunset” when the surtax “sunssets” (on December 31, 2026 or when the total aggregate distribution reaches \$2,700,000,000). No further action of the Village Council shall be required.

The conduct of the Committee is governed by Section 2-1 of the Village Code of Ordinances. This section imposes various procedural and substantive requirements, including but not limited to the following:

- Committee members shall serve without compensation.
- Meetings may be held at the call of the chairperson or as otherwise determined by the Committee.
- Special meetings require forty-eight (48) hours’ notice.
- All meetings shall be open to the public and comply with the Government in the Sunshine Law.
- A quorum consists of three members and an affirmative vote of a majority of those present is necessary to take any official action.
- Committee members are subject to removal by the Village Council.

Contact person: Leonard G. Rubin, Village Attorney

Recommendation:

Village Administration seeks Council consideration, input and guidance regarding the attached draft Resolution creating the Village of North Palm Beach Infrastructure Surtax Oversight Committee.

RESOLUTION 2017-_____

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA ESTABLISHING THE VILLAGE OF NORTH PALM BEACH INFRASTRUCTURE SURTAX OVERSIGHT COMMITTEE; PROVIDING FOR THE COMPOSITION AND DUTIES OF THE COMMITTEE; ESTABLISHING PROCEDURES; PROVIDING FOR A SUNSET DATE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on May 17, 2016, the Board of County Commissioners for Palm Beach County adopted Ordinance No. 2016-032 to impose a voter-approved one percent local government infrastructure surtax to be utilized by the County, the Palm Beach County School Board, and the municipalities within Palm Beach County for the financing, planning, construction, reconstruction, renovation and improvement of necessary infrastructure; and

WHEREAS, at the referendum election held on November 8, 2016, Palm Beach County voters approved the imposition of the surtax; and

WHEREAS, County Ordinance No. 2016-032 and the ballot language approved by the voters called for “independent oversight by citizen committees” to review the expenditure of surtax proceeds; and

WHEREAS, County Ordinance No. 2016-032 provides that a municipality may either create its own citizen oversight committee or participate in an oversight committee created by the Palm Beach County League of Cities; and

WHEREAS, the Village Council determines that it is in the best interests of the residents and citizens of the Village of North Palm Beach to establish its own Infrastructure Surtax Oversight Committee.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA as follows:

Section 1. Recitals.

The foregoing recitals are ratified as true and incorporated herein.

Section 2. Establishment.

The Village Council hereby establishes the Village of North Palm Beach Infrastructure Surtax Oversight Committee (“Committee”) pursuant to County Ordinance No. 2016-032, as codified in Section 17-494 of the County Code.

Section 3. Composition and terms.

The Committee shall be appointed by the Village Council and shall consist of five (5) members who are residents of the Village. The initial terms of the Committee members shall be as follows:

- (1) The terms of three members shall expire on April 30, 2019; and
- (2) The terms of two members shall expire on April 30, 2020.

After the expiration of the initial terms, the Committee members shall serve terms of two (2) years. Any vacancies on the Committee shall be filled by the Village Council and vacancies occurring during a term of appointment shall be for the remainder of the term.

Section 4. Responsibilities and duties.

The Committee shall act solely in an oversight and advisory capacity to the Village Council. The Committee shall prepare an annual report to the Village Council regarding:

- (1) Whether the Village's expenditure of the surtax proceeds for the fiscal year was consistent with the requirements of Section 212.055(2), Florida Statutes, and the ballot language approved by the voters; and
- (2) Whether the Village's expenditure of the surtax proceeds for the fiscal year was consistent with the Village's approved surtax proceeds project list, if any, or any revisions or modifications to the surtax project list as approved and adopted by the Village Council.

Section 5. Organization and procedures.

A. At the first organizational meeting of the Committee, the members shall elect a chairperson and a vice chairperson from among the Committee membership. Subsequent to the initial organizational meeting, the Committee shall appoint a chairperson and vice chairperson from among the Committee membership at the first regular meeting in May each year.

B. The Committee shall meet monthly during the life of the Committee or at a greater or lesser frequency as determined by the Committee in order to fulfill its duties and responsibilities.

C. The Village Manager or his or her designee, in coordination with the chairperson, shall be responsible for establishing the meeting agenda. The Village Manager shall serve as the staff liaison to the Committee.

D. To the extent not inconsistent with the express terms of this Resolution, the conduct of the Committee shall comply with the provisions of Section 2-1 of the Village Code of Ordinances.

Section 6. Reports.

A. The Committee shall compile information received from the Village on surtax expenditures so that it is able to provide annual reports on such expenditure to the Village Council during the fiscal year by December 31st of each year. The Committee shall also provide a final report prior to completing its duties and "sunsetting" in accordance with Section 7 below.

B. Village Staff shall provide support services to the Committee as necessary in order for the Committee to carry out its duties and responsibilities.

Section 7. Sunset provision.

A. Pursuant to County Ordinance 2016-032, as codified in Section 27-493(a) of the County Code, the surtax shall be in effect only through December 31, 2026. It shall “sunset” and expire thereafter, without further action by any local government. Alternatively, the surtax shall “sunset” in the event the total aggregate distribution of the surtax proceeds equal or exceed the amount of \$2,700,000,000.00 on or before September 1 of any year during the term of the surtax, in which event the Palm Beach County Board of County Commissioners shall take all necessary action to repeal the surtax and notify the Florida Department of Revenue prior to the applicable deadline so that the surtax will not continue for the following calendar year.

B. The Committee shall remain in effect solely for the life of the surtax imposed pursuant to County Ordinance 2016-032, and until all surtax proceeds are expended by the Village. Thereafter, upon completion of its final report, the Committee shall automatically sunset and no further action of the Village Council is required.

Section 8. This Resolution shall be effective immediately upon adoption.

PASSED AND ADOPTED THIS ____ DAY OF _____, 2017.

(Village Seal)

MAYOR

ATTEST:

VILLAGE CLERK

ARTICLE XVI. - LOCAL GOVERNMENT INFRASTRUCTURE TAX^[10]*Footnotes:**-- (10) --**Editor's note— The surtax imposed by Ord. No. 2016-032, adopted May 17, 2016, passed at a referendum election held on Nov. 8, 2016.*

Sec. 17-491. - Imposition.

There is hereby imposed a one (1) percent local government infrastructure surtax ("Surtax") upon all authorized taxable transactions occurring within the County.

(Ord. No. 2016-032, § 2, 5-17-16)

Sec. 17-492. - Administration, collection, and distribution of proceeds.

The Surtax shall be administered, collected, and enforced in accordance with the provisions of Section 212.054, Florida Statutes (2015), and the rules promulgated by the Florida Department of Revenue. The proceeds of the Surtax shall be distributed by the Department of Revenue directly to the County, the Municipalities, and the School Board, in accordance with an interlocal agreement.

(Ord. No. 2016-032, § 3, 5-17-16)

Sec. 17-493. - Expiration date; survival of certain restricted uses.

- (a) *Sunset.* In all events, this article shall be in effect only through December 31, 2026. It shall "sunset" and expire thereafter, without further action by the Board, at which time it shall be deemed repealed and of no further force and effect, and the Surtax levied hereunder shall terminate. Alternatively, this article shall "sunset" in the event that the total aggregate distributions of Surtax proceeds equal or exceed the amount of \$2,700,000,000.00 on or before September 1 of any year during the term of this article, in which event the Board shall take all necessary action to repeal this article and notify the Florida Department of Revenue prior to the applicable deadline so that the Surtax will not continue for the following calendar year.
- (b) *Survival of restrictions on use of Surtax proceeds.* Notwithstanding the provisions of subsection (a) for the expiration and repeal of this article, so long as any Surtax proceeds shall remain unspent, the restrictions hereby imposed concerning the distribution and use of such Surtax proceeds as well as the proceeds of any borrowings payable from Surtax proceeds, and all interest and other investment earnings on either of them shall survive such expiration and repeal and shall be fully enforceable in a court of competent jurisdiction.

(Ord. No. 2016-032, § 6, 5-17-16)

Sec. 17-494. - Citizen oversight.

- (a) The County, the Municipalities, and the School Board shall each separately provide for the creation of citizen oversight committees ("Committee" or collectively "Committees") to provide for citizen review of their respective expenditure of Surtax Proceeds, as soon as possible after the Surtax becomes effective, but not later than the date on which Surtax funds are first expended. A Municipality may either participate in an oversight committee created by the Palm Beach League of Cities or create its own committee.
- (b) The Committees shall serve as advisory and reporting bodies to the creating entities. Each creating entity shall establish specific duties and membership requirements governing Committee operations and participation.
- (c) Each Committee shall have the responsibility to review the expenditure of Surtax proceeds by the entity which created it.
- (d) The Committees shall meet monthly, or as otherwise needed to fulfill their duties and responsibilities. Each Committee shall provide an annual report to the governing board of the entity which created it.
- (e) Committee members shall receive no compensation for the performance of their duties.
- (f) The Committees, their members, and all their proceedings shall be governed by and comply with the provisions of the Florida Sunshine Law, F.S. Ch. 286, Florida Statutes, the Florida Public Records Law, F.S. Ch. 119, and the Florida Ethics Code, F.S. Ch. 112, and all other applicable local or state statutes, ordinances, or rules.

(Ord. No. 2016-032, § 7, 5-17-16)

Sec. 2-1. - Boards and committees.

- (a) *Purpose.* The purpose of this section is to establish procedures for village boards and committees. Except as specifically provided by law or ordinance, all boards and committees are advisory only and the existence of such advisory boards and committees does not diminish or alter the statutory or constitutional authority of the village council.
- (b) *Scope.* The provisions of this section shall apply to all village boards and committees and shall govern the conduct of all members of such boards.
- (c) *Creation of advisory boards.* The village council may, by ordinance, create a board or committee in connection with any function of the village. The ordinance creating such board shall specify the purpose, powers, and duties of the board. Nothing set forth herein shall prevent the village council from creating ad hoc committees of limited duration by resolution.
- (d) *Records.* Each board and committee shall maintain attendance records and voting records of each member and shall forward such information to the village clerk. The records shall include the reason given by the board or committee member for any absence.
- (e) *Compensation of members.* Board and committee members shall serve without compensation except as may be provided by ordinance or resolution of the village council.
- (f) *General provisions.* Members of village boards and committees:
- (1) Shall serve at the pleasure of the village council and may be removed with or without cause by a vote of the village council;
 - (2) Shall be a resident of the village and maintain residency in the village during the term of appointment (unless waived by the village council) and meet such other eligibility requirements as may be established by the village council;
 - (3) Shall not hold any employment or office in village government or any contractual relationship with the village;
 - (4) Shall serve on only one (1) village board or committee where membership on two (2) boards or committees would violate the constitutional dual office-holding prohibition;
 - (5) Shall not appear before the board or committee on which they serve or the village council as an agent or attorney on behalf of any person or entity;
 - (6) Shall not have or hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between their private interests and the performance of their public duties or that would impede the full and faithful discharge of their public duties;
 - (7) Shall not initiate any grievance or complaint against any person appearing before the board or committee on which they serve without the approval of the village manager; and
 - (8) Shall attend all meetings in person and shall not participate as a member of any board or committee or vote on any matter by telephone, video conferencing, or any other electronic means.
- (g)

Number of members. Unless otherwise provided by law or ordinance, each advisory board or committee shall have five (5) regular members and two (2) alternative members, designated as the first alternate and the second alternate. At the beginning of each meeting, the chairperson of the board or committee shall publicly announce whether first alternate and/or the second alternate will be participating in votes taken by the board or committee.

(h) *Terms of members.*

- (1) The terms of members shall be established in the ordinance creating the board or committee.
- (2) Members whose terms have expired shall continue to serve until their successors are appointed.
- (3) Board and committee members may be reappointed to successive terms.

(i) *Officers.*

- (1) All boards and committees shall, at a meeting during the month of May, elect a chairperson, a vice-chairperson, and any other officers as the board deems necessary. The chairperson shall preside at board meetings and shall be the official spokesperson for the board.
- (2) The vice-chairperson shall assume the duties of the chairperson in the absence of the chairperson. At any meeting where the chairperson and the vice-chairperson are absent, the board or committee shall appoint a chairperson pro tempore to assume the duties of the chairperson.

(j) *Rules.* Each board and committee shall adopt rules and regulations regarding the manner of conducting its meetings, which shall be consistent with the rules and regulations prescribed by the village council. Each board and committee shall adhere to the basic rules of parliamentary procedure, which require that:

- (1) All items of business and motions that are properly before the board or committee are fully and freely discussed;
- (2) Only one (1) issue or motion be considered at a time;
- (3) All members direct their remarks to the chairperson and wait to be recognized by the chairperson;
- (4) While majority rules, the rights of the minority are protected by assuring them the ability to speak and vote; and
- (5) All members refrain from making personal remarks or otherwise attacking the motives of other members.

(k) *Meetings.*

- (1) Meetings shall be held at the call of the chairperson, at such other times as the board or committee may determine, or as otherwise provided by law or ordinance. Special meetings shall not be held unless at least forty-eight (48) hours notice is given to each member and to the village clerk.
- (2) Members shall notify the chairperson if they are unable to attend a meeting. If a quorum will not be present, the scheduled meeting shall be cancelled.
- (3) Minutes shall be kept of the proceedings at each meeting and shall record the official acts taken by the board or committee. Minutes shall be transmitted to, and maintained by, the village clerk.

- (4) All meetings and public hearings of village boards and committees shall be open to the public. All meetings shall be governed by Government-in-the-Sunshine Law, as set forth in F.S. § 286.011.
- (l) *Quorum and required vote.*
- (1) Unless otherwise provided by law or ordinance, a quorum for the transaction of business shall consist of three (3) members.
- (2) The affirmative vote of a majority of those present shall be necessary to take official action. If any motion fails to achieve the affirmative vote of a majority of those present, then such petition or other matter shall be deemed denied.
- (m) *Removal of members.*
- (1) Unless waived by the village council, any member who no longer resides within the village during his or her term shall automatically cease to be a member of the board or committee and shall inform the village clerk's office.
- (2) If any member of a board or committee is absent from three (3) consecutive regular meetings or twenty-five (25) percent of the regular meetings within any twelve-month period, the chairperson shall notify the village council of such absences in writing. Upon consideration of the circumstances pertaining to the member's absences, the village council may retain the member or declare the member's office vacant and promptly fill such vacancy for the unexpired term of office.
- (n) *Resignation of members.* Members of boards or committees may resign at any time, by submitting a written letter of resignation to the village clerk.
- (o) *Clerical/technical support.* The village manager may furnish the board or committee necessary clerical services and technical assistance.
- (p) *Dissolution of boards.* Unless otherwise provided by law or ordinance, the village council may dissolve a board or committee if the village council determines that the board is no longer needed to meet the purposes for which it was established.
- (Code 1970, § 2-18; Ord. No. 18-2001, § 1, 6-28-01; Ord. No. 06-2002, § 1, 2-28-02; Ord. No. 2007-13, §§ 1, 2, 7-12-07)