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September 6, 2023

MEMORANDUM

TO: Morris Richardson, County Attorney

RE: Item E.1., Resolution for the Use of Tourist Tax Revenues for Beach Lifeguard Services

The Board of County Commissioners, in special session on September 5, 2023, adopted Resolution No. 23-089, finding that one of the main purposes of beach lifeguard services is the attraction of tourist in Brevard County, finding that a clear and direct relationship exists between beach lifeguard services and the promotion of tourism, supporting the expenditure of Tourist Development Tax revenues on beach lifeguard services and the promotion of beach lifeguard services to tourists pursuant to Section 125.0104(5)(a)(3), Florida Statutes and Section 102-119(3)a., Brevard County Code of Ordinances, and providing for an effective date. Enclosed is a fully-executed Resolution.

Your continued cooperation is greatly appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

A handwritten signature in cursive script that reads "Kimberly Powell".

Kimberly Powell, Clerk to the Board

Encl. (1)

cc: Tourism Development
Finance
Budget

RESOLUTION NO. 23- 089

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, FINDING THAT ONE OF THE MAIN PURPOSES OF BEACH LIFEGUARD SERVICES IS THE ATTRACTION OF TOURISTS TO BREVARD COUNTY; FINDING THAT A CLEAR AND DIRECT RELATIONSHIP EXISTS BETWEEN BEACH LIFEGUARD SERVICES AND THE PROMOTION OF TOURISM; SUPPORTING THE EXPENDITURE OF TOURIST DEVELOPMENT TAX REVENUES ON BEACH LIFEGUARD SERVICES AND THE PROMOTION OF BEACH LIFEGUARD SERVICES TO TOURISTS PURSUANT TO SECTION 125.0104(5)(a)(3), FLORIDA STATUTES, AND SECTION 102-119(3)a., BREVARD COUNTY CODE OF ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Brevard County advertises and promotes its 72 miles of beaches to tourists; and

WHEREAS, Brevard County's beaches are a major focus of the attraction of tourists to Brevard County; and

WHEREAS, this includes not only the beach and waters themselves but the beach facilities and beach amenities, which allow greater access and enhanced enjoyment of these areas; and

WHEREAS, Brevard County promotes its beach lifeguard services to tourists; and

WHEREAS, beach lifeguard services provide an additional amenity for tourists and make Brevard County's beaches safer for tourists; and

WHEREAS, the availability of beach lifeguard services is a consideration for many tourists in choosing their beach vacation destination; and

WHEREAS, generally, tourists are less likely than Brevard County residents to be aware of rip currents and other challenging local beach conditions; and

WHEREAS, from December 2022 through July 2023, Brevard County experienced ten ocean fatalities on its beaches; and

WHEREAS, of the ten victims, eight were non-resident visitors to Brevard County; and

WHEREAS, these deaths have been widely reported in the media locally, regionally, and nationally; and

WHEREAS, a perception that Brevard County's beaches are unsafe would negatively impact tourism by deterring potential visitors from making Brevard County their beach vacation destination; and

WHEREAS, none of the above-described fatal ocean incidents in Brevard County occurred at a beach protected by lifeguards; and

WHEREAS, according to researchers at Florida Tech, of 43 documented drowning fatalities from 2010 through March 2023, none happened on lifeguarded beaches; and

WHEREAS, experts advise that people can take steps to stay safe from rip currents, including only swimming at beaches where lifeguards are present and talking to a lifeguard at the beach about local water conditions; and

WHEREAS, the provision of a safe beach environment for the attraction of visitors to Brevard County is an essential component of the promotion of tourism; and

WHEREAS, beach lifeguard services are not in the nature of a general governmental function which is owed to the public at large; and

WHEREAS, the County has wide discretion in whether, where, and how to provide beach lifeguard services; and

WHEREAS, in determining whether, where, and how to deploy beach lifeguard resources, beach utilization is a primary consideration and is driven in significant part by the number of visitors to the area utilizing various beach locations; and

WHEREAS, section 125.0104(5)(a)(3), Florida Statutes, authorizes the use of tourist development tax revenues to promote tourism by providing a local service which has as one of its main purposes the attraction of tourists and which is promoted to tourists; and

WHEREAS, section 102-119(3)a., Brevard County Code of Ordinances, part of Brevard County's adopted tourist development tax budget plan, provides for the use of tourist development tax revenues to promote tourism by providing a local service which has as one of its main purposes the attraction of tourists and which is promoted to tourists; and

WHEREAS, according to the Florida Office of the Attorney General, the determination as to whether a particular expenditure satisfies the requirements of section 125.0104, Florida Statutes, is the responsibility of the governing body of a county.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA:

Section 1. Recitals. The foregoing recitals are true and correct and incorporated herein as findings of the Board of County Commissioners by this reference.

Section 2. Findings. The Board of County Commissioners finds that beach lifeguard services do not incidentally benefit tourists, but rather, a clear and direct relationship exists between lifeguard services and the promotion of tourism. The Board further finds that one of the main purposes of beach lifeguard services is the attraction of tourists to Brevard County.

Section 3. Funding for Beach Lifeguard Services. The Board of County Commissioners finds that the expenditure of tourist development tax revenues on beach lifeguard services satisfies the requirements of section 125.0104, Florida Statutes, specifically, subsection 125.0104(5)(a)(3), which authorizes the use of tourist development tax revenues to promote tourism by providing a local service which has as one of its main purposes the attraction of tourists and which is promoted to tourists. The Board of County Commissioners authorizes the expenditure of tourist development tax revenues on the provision of beach lifeguard services and

on the promotion of beach lifeguard services to tourists, to be budgeted and disbursed pursuant to section 102-119(3)a., Brevard County Code of Ordinances, as part of the County budget to be adopted annually at a public hearing.

Section 4. Effective Date. This Resolution shall take effect immediately upon adoption.

DONE, ORDERED, AND ADOPTED in regular session this 5th day of September, 2023.

ATTEST:

Brevard County Board of County Commissioners





Rachel Sadoff, Clerk


BY:



Rita Pritchett, Chair

(Approved by the Board on September 5, 2023)

Reviewed for legal form and content:



Morris Richardson, County Attorney