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AGENDA COVER MEMO

AGENDA DATE: May 14 and May 28, 2008
Memorandum Date: May 6, 2008

TO: LANE COUNTY BOARD OF COMMISSIONERS

DEPARTMENT: LANE COUNTY OFFICE OF LEGAL COUNSEL

PRESENTED BY: Teresa J. Wilson, County Counsel 

AGENDA ITEM TITLE: Ordinance No 4-08/In the Matter of Amending Chapter 4 of Lane Code to Equalize the Lane County Transient Room Tax Countywide by Eliminating the Reduction in Western Lane County and Setting an Effective Date (LC 4.110(2))

I. MOTION

May 14: I move the first reading and setting the second reading for Ordinance no. 4-08 equalizing the County room tax countywide, with the second reading and public hearing at 1:30 p.m. on May 28.

May 28: I move to enact Ordinance No. 4-08 equalizing the County room tax countywide.

II. AGENDA ITEM SUMMARY The Board is being asked to approve changes to the County Transient Room Tax that will make it the County tax the same throughout Lane County, and to eliminate the 1 % reduction that has existed for Western Lane County since January, 1995.

III. BACKGROUND/IMPLICATIONS OF ACTION

A. Board Action and Other History

The County room tax was initially enacted in 1973 at a 5% rate. Up to 3% is "shared" with cities who request it or who have their own tax in that the County foregoes up to 3% of its tax. It was increased in 1986 by 1%, with the additional sum dedicated to tourism promotion. In 1992, Lane County amended the tax, increasing the tourism rate by 2% (total rate of 8%) except in Western Lane County, which stayed at the level of 6% (the 5% plus the 1% for tourism promotion). The Western Lane County rate was increased by 1% in 1994 to 7% (5% plus 2% for tourism promotion), which is where it currently is. At that time, Lane County signed an agreement with the City of Florence in which it pledged to pay the City \$200,000 of room tax revenue annually for 20 years, to be used by the City for debt service for the Florence Event Center.

In 2001, the Legislature adopted certain restrictions on local transient room taxes and in 2003, imposed a statewide room tax. These restrictions placed a moratorium on new or increases room taxes, unless they are used to fund tourism promotion or tourism-related facilities.

The Florence Mayor Brubaker appeared before the Board of Commissioners on April 30 to apprise them of the City's intent to increase the City's own room tax by 1% in order to

assist with the financing of operational costs of the Florence Event Center. At that time, the Board gave staff direction to bring forward an ordinance eliminating the countywide disparity in the County room tax between Western Lane County and the remainder of Lane County, with the attendant result of another 1% increase for Western Lane County, and to make it effective at the same time as the City's increase. The City adopted its ordinance on May 5, with the changes to take effect July 1, 2008.

B. Policy Issues

The County room tax disparity for Western Lane County existed in recognition by the County of the area's relative competitive position in the market. The policy issues for the Board is whether the market position for Western Lane County still warrants the disparity.

C. Board Goals

Under Lane Code 4.510, the Board has provided that a different tax burden among geographic areas must meet certain criteria. Specifically, it states:

"Any difference in tax burden imposed within separate geographic boundaries within Lane County, Oregon shall meet the following criteria:

(1) Differences in services to be provided in different geographic areas must be real and substantial.

(2) Geographic boundaries shall be drawn so that services provided within designated areas are qualitatively different from services provided within other geographical areas.

(3) Services provided within the different geographical areas must be unique.

(4) Any differences in tax burdens shall be based upon the actual costs of providing services and administration."

D. Financial and/or Resource Considerations

The City estimated that a 1% increase within its limits would produce \$40,000. The County's share would produce similarly, plus an additional amount reflecting properties at which room tax is charged within Western Lane County but outside the City of Florence. Given the very short turn around to produce this agenda packet in order to have adoption plus 30 days prior to the desired July 1 effective date, I have been unable to get a better estimate. I would hope to be able to present that to the Board orally.

The room tax revenues are dedicated; this specific increase would be dedicated to tourism, and specifically would be split among the Code-defined purposes (LC 4.175(6): 70% for marketing the visitor industry; 10% for Lane County Historical Museum operations, 10% for special projects and 10% for marketing tourism outside the urban grown boundaries of the cities of Eugene and Springfield.

E. Analysis

Attached to this cover memo is a copy of the Agenda Item Summary presented to the Florence City Council, which provides a discussion of why the City was presented with an increase in the City rate. It includes a room tax comparison chart, which shows that total room tax rates for coastal cities ranging from 8% to 10.5%. If the County enacts this ordinance, the room tax rate within the City would be 10% (i.e., 1% to State, 4% to

Florence and 5% to the County) and the room tax rate in rural Western Lane County would be 9% (i.e. 1% to State and 8% to the County). It appears that the disparity that may have existed when it was enacted no longer exists, but that is ultimately a judgment call for the Board of Commissioners.

If the Board chooses to enact this ordinance, it is prudent to make its effective date the same as the City of Florence, as that would ease the impact of changes that the tax collectors (hoteliers) need to make.

F. Alternatives/Options

The alternative to enacting the ordinance eliminating the disparity is to find that a market disparity continues to exist for the Western Lane County area in comparison to its coastal competitors. Such a conclusion would mean that the proposed ordinance should not be enacted and the present County room tax rate should remain in effect.

IV. TIMING/IMPLEMENTATION

If the ordinance is enacted at the proposed time of the second reading, and no change is made in its effective date, then it will take effect at the same time as the change by the City of Florence, July 1, 2008.

If a substantive change is made in the ordinance, that would necessitate an additional reading and would mean also adding an emergency clause, as there would then be less than 30 days between enactment and the effective date. See Lane County Charter, Section 18(6).

V. RECOMMENDATION

I recommend enactment of the ordinance as proposed.

VI. ATTACHMENTS

City of Florence Agenda Item Summary, dated 5/5/08
Ordinance 4-08 with attached Lane Code pages and legislative format pages

AGENDA ITEM SUMMARY**ITEM NO: 6****FLORENCE CITY COUNCIL**Meeting Date: 5-5-08
Department: City Manager

ITEM TITLE: Approval of Ordinance No. 10, Series 2008, an Ordinance amending Florence City Code Title 3 Chapter 7: Transient Room Tax.

BACKGROUND/ISSUE: The Florence Event Center (FEC) was built in 1994. The Lane County Board of Commissioners approved an IGA with the City committing County Transient Room Tax (TRT) funds to help pay the debt service for the bonds which were sold to finance the project. In 2004, after the City refinanced the debt, the Board of County Commissioners approved an amendment to the IGA approving the use of up to \$40,000 per year for operational purposes of the FEC (the IGA funds). The City commits most of its own TRT funds, the IGA funds, and its RTMP funds from the County to pay for the operation of the FEC. A promise was made to the taxpayers in Florence in 1994 that property tax funds would never be used to fund the operation of the FEC. The casino opened a new Event Center in Florence in January.

Since it began operation, the operating costs of the FEC have exceeded its operating revenues. Attached is a spreadsheet that shows the operating deficit for the last 5 years. This funding problem is unlikely to change unless and until a "headquarters" hotel can be built at or very near the FEC. The facility is very successful as a community resource and is often mentioned as one of the amenities that attracts visitors and new residents. But the bread and butter of event centers are multi-day conferences and conventions.

Without a headquarters hotel, the FEC is not competitive for this business. It is hoped that the new urban renewal agency will be able to make a sufficient public investment to attract a hotel operator. Vacant land is available next to the FEC for this purpose. But a hotel is years away, if ever. In the meantime, the FEC needs to survive on local events and small conferences. Last year, with the room tax subsidy, it had a \$30,000 deficit which had to be filled with community donations and a cut in marketing expenditures. This year, the deficit is a little larger.

Compounding the problem, the new casino has opened a new event center in Florence and is starting to attract some of the local events and meetings that have sustained the FEC over the years. Nearly 80% of the City's general fund is devoted to public safety (police, fire, etc.). Even if the property tax promise had not been made, the general fund cannot afford to subsidize the operation of the FEC.

PROPOSED SOLUTION/FISCAL IMPACT: Staff is requesting that the Council consider an increase in its local TRT from 3% to 4%. This solution is preferred by the supporters of the FEC and the members of the public who commented at the roundtable brainstorming session. It is estimated that this increase will raise an additional \$40,000 in room tax revenue. Staff has also amended language to capture transient room tax on RV parks within the City limits. This amendment would be consistent with Lane County Code 4.110, which enables them to collect TRT from RV parks in the county.

Currently, visitors in Florence pay 8% in TRT (1% to the State, 3% to Florence, and 4% to the County). The proposed solution would mean that visitors would pay 9% in TRT. If the County eliminates the 1% differential in TRT between east and west Lane County, the total would be 10%.

The Florence Chamber of Commerce Board of Directors polled their general membership to ask if they were in favor or against the 1st TRT increase. Of the 260 members, only 12 responded. Out of those twelve, 8 businesses said 'yes' and 4 said 'no', they were not in favor of the increase.

On April 30th Mayor Phil Brubaker (on behalf of City Manager Bob Willoughby), attended the Lane County Board of County Commission meeting to apprise them of the City's intent to increase the City transient room tax by 1% at the May 5th Council meeting. The County Commissioner's supported the 1% increase for the City TRT, and also approved a motion to begin the process to eliminate the 1% lower TRT in West Lane County.

ALTERNATIVES:

1. The FEC only has 3 employees. Cutting back on expenses is not an option. The only viable option is to develop a new sustainable revenue source that does not involve property taxes or it will eventually be faced with closure. The City Council has discussed this issue in its annual goal setting sessions. They've also held a community roundtable to discuss a number of alternatives for generating more revenue for the FEC. This process has involved the FEC volunteer groups and included public input at the roundtable meeting.
2. Deny the Ordinance
3. Approve a modified version of the Ordinance

RECOMMENDATION: Approve Ordinance No. 10, Series 2008, an Ordinance Amending Florence City Code 3-7.

CITY MANAGER'S RECOMMENDATION: Approve Disapprove/Other

Jmm for RSW

Florence Event Center Operating Deficit

Florence Events Center Analysis	FY 02-03	FY 03-04	FY 04-05	FY 05-06	FY 06-07
Operating revenue	\$143,702	\$162,617	\$148,872	\$226,983	\$210,328
Operating expense	\$246,143	\$266,210	\$289,382	\$314,164	\$348,342
Operating deficit	-\$102,441	-\$103,593	-\$140,510	-\$87,181	-\$138,014

Room Tax Comparison Chart

City	Current IRT Rate	County
Astoria	10%	Clatsop
Seaside	9%	Clatsop
Newport	10.5%	Lincoln
Yachats	8%	Lincoln
Reedsport	8%	Douglas
North Bend	8%	Coos
Coos Bay	8%	Coos
Eugene	10.5%	Lane
Springfield	10.5%	Lane
Cottage Grove	10%	Lane
Dunes City	8%	Lane
Florence (current)	8%	Lane
Florence (with 1%)	9%	Lane
Florence (with 2%)	10%	Lane

IN THE BOARD OF COUNTY COMMISSIONERS, LANE COUNTY, OREGON

ORDINANCE NO. 4-08

IN THE MATTER OF AMENDING CHAPTER 4 OF
LANE CODE TO EQUALIZE THE LANE COUNTY
TRANSIENT ROOM TAX COUNTYWIDE BY
ELIMINATING THE REDUCTION IN WESTERN
LANE COUNTY AND SETTING AN EFFECTIVE
DATE (LC 4.110(2))

The Board of County Commissioners of Lane County ordains as follows:

Chapter 4 of Lane Code is hereby amended by removing, substituting and adding a new section as follows:

REMOVE THIS SECTION

4.110
located on pages 4-2 through 4-3
(a total of 2 pages)

INSERT THIS SECTION

4.110
located on pages 4-2 through 4-3
(a total of 2 pages)

Said pages are attached hereto and incorporated herein by reference. The purpose of these changes is to amend Lane Code Chapter 4 to equalize the Lane County transient room tax countywide by eliminating the reduction in western Lane County and setting an effective date of July 1, 2008 (LC 4.110(2)).

ENACTED this _____ day of _____ 2008.

Chair, Board of County Commissioners

Recording Secretary for this Meeting of the Board

APPROVED AS TO FORM

Date 5/6/08 Lane County


OFFICE OF LEGAL COUNSEL

Rent Package Plan. The consideration charged for both food and rent where a single rate is made for the total of both. The amount applicable to rent for determination of transient room tax under this ordinance shall be the same charge made for rent when consideration is not a part of a package plan.

Tax. Either the tax payable by the transient, or the aggregate amount of taxes due from an operator during the period for which collections must be reported. "Tax" includes both taxes imposed by LC 4.110(1) and (2) below.

Tax Administrator. The person designated as such by separate order of the Board or by intergovernmental agreement.

Tourism. The business of attracting and providing services and accommodations to those persons who are traveling for recreational or cultural purposes.

Transient. Any individual who exercises occupancy or is entitled to occupancy in a hotel or recreational vehicle park for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days. The day a transient checks out of the hotel or recreational vehicle park shall not be included in determining the thirty-day period if the transient is not charged rent for that day by the operator. Any such individual so occupying space in a hotel or recreational vehicle park shall be deemed to be a transient until the period of thirty days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of this ordinance may be considered. A person who pays for lodging on a monthly basis, irrespective of the number of days in such month, shall not be deemed a transient.

Transient Room Tax Review Committee. A committee composed of an accountant, attorney, an operator and two lay persons appointed by the Board.

Visitor Industry. The business of attracting and providing services and accommodations for both the convention business and tourism. (*Revised by Ordinance No. 8-73, Effective 9.14.73; 2-86, 7.1.86; 15-92A, 2.1.93; 7-94, 1.6.95*)

4.110 Tax Imposed.

(1) For the privilege of occupancy in any hotel or recreational vehicle park, on and after January 1, 1974, each transient shall pay a tax in the amount of five percent (5%) of the rent charged by the operator.

(2) For the privilege of occupancy in any hotel or recreational vehicle park in Lane County, Oregon, on or after July 1, 2008, each transient shall pay an additional tax in the amount of three percent (3%) of the rent charged by the operator. After providing for the cost of administration, any refunds or credits authorized by this subchapter and any sum necessary to meet the County's annual bonds' service payment for the Fairground bonds described in LC 4.175 below, the revenues collected from the tax imposed by this subsection shall be used for enhancement of the visitor industry, as further described in LC 4.175(6) below.

(3) The taxes imposed pursuant to this subchapter constitute a debt owed by the transient to the County which is extinguished only by payment to the operator or to the County. The transient shall pay the taxes to the operator at the time the rent is paid. The operator shall enter the taxes on the records when rent is collected if the operator keeps records on a cash accounting basis and when earned if the operator keeps records on an accrual accounting basis. If rent is paid in installments, a proportionate share of the tax shall be paid by the transient to the operator with each installment. If for any reason the taxes due are not paid to the operator the Tax Administrator may require that such tax(es) shall be paid directly to the County. In all cases, the rent paid or charged for occupancy, shall exclude the sale of any goods, services and commodities, other than the

furnishing of rooms, accommodations, space in mobile homes and trailers, and space in recreational vehicle parks.

(4) Any person subject to the payment or collection of a tax pursuant to the provisions of this subchapter shall be entitled to credit against the payment of such tax the amount due any incorporated city or town within Lane County for a Transient Lodgings Tax for the same occupancy taxable hereunder but not to exceed three percent (3%) of the rent upon which the tax is paid. *(Revised by Ordinance No. 8-73, Effective 9.14.73; 2-86, 7.1.86; 15-92A, 2.1.93; 7-94, 1.6.95; 9-94, 1.6.95)*

At right margin indicates changes
Bold indicates material being added
~~Strikethrough~~ indicates material being deleted

**LEGISLATIVE
FORMAT**

4.110 Lane Code 4.110

Rent Package Plan. The consideration charged for both food and rent where a single rate is made for the total of both. The amount applicable to rent for determination of transient room tax under this ordinance shall be the same charge made for rent when consideration is not a part of a package plan.

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(2) ~~Except in the area noted below,~~ For the privilege of occupancy in any hotel or recreational vehicle park in Lane County, Oregon, on or after ~~February 1, 1993~~ **July 1, 2008**, each transient shall pay an additional tax in the amount of three percent (3%) of the rent charged by the operator. After providing for the cost of administration, any refunds or credits authorized by this subchapter and any sum necessary to meet the County's annual bonds' service payment for the Fairground bonds described in LC 4.175 below, the revenues collected from the tax imposed by this subsection shall be used for enhancement of the visitor industry, as further described in LC 4.175(6) below.

~~(a) Due to the highly competitive nature of the tourism business among coastal areas, the Board finds it is prudent to provide for a graduated increase in Western Lane County in order to avoid seriously damaging that area's relative competitive position in the market. Therefore, within the area known as Lane County Road Maintenance Zone 5, as described on the Lane County 1989 Road Maps, on or after February 1, 1993, each transient shall pay an additional tax in the amount of two percent (2%) of the rent charged by the operator.~~

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**LEGISLATIVE
FORMAT**

4.110 Lane Code 4.110

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