

# CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

## Policy Session Worksheet

**Presentation Date:** 12/17/19 **Approx. Start Time:** 2:00pm. **Approx. Length:** 30 mins.

**Presentation Title:** Local Transient Lodging Tax Programs Review

**Department:** Tourism & Cultural Affairs

**Presenters:** Samara Phelps, CCTCA Executive Director; Jim Austin, Tourism Coordinator

**Other Invitees:** Christa Bosserman Wolfe, Finance Director; Haley Fish, Deputy Finance Director

### **WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?**

No action is being requested of the Board. The purpose of this policy session to provide background information on local transient lodging taxes (TLT), authorized use of revenues, and how other non-tourism related programs could be funded local TLT dollars.

### **EXECUTIVE SUMMARY:**

At the July 30, 2019 policy session, BCS staff provided an update on the Clackamas County Heritage Project. The presentation included efforts to date, key learnings, and a recommendation to move forward with plans to establish a county heritage district as authorized under ORS 358.442 - 358.474. A local property tax levy was identified as the source of funding to provide operational support for the district. This was option #3 in the policy session worksheet. At the August 8, 2019 Business Meeting, under Citizen Communications, a citizen requested that the Board look into the possibility of using county TLT revenues, as an alternative to a property tax levy, to support the district.

What follows is an overview of state legislation that authorizes local TLT programs, the county's TLT ordinance, the landscape in which Clackamas County's TLT program exists, and an exploration of what an increase in the County's TLT rate might generate to support a heritage district or other non-tourism related programs.

### **Background -**

#### **A) State Legislation**

In 2003, the Oregon Legislature passed ORS Chapter 320 (HB 2267), which established a 1% statewide TLT and created the Oregon Tourism Commission. The legislation limited local governments with TLTs in place at the time the statute took effect. It required those jurisdictions to maintain their existing use and allocation ratios, with the added caveat that such allocations could not decrease the percentage of revenues expended on tourism. The demarcation date is July 1, 2003. ORS Chapter 320 also

established that at least 70% of revenues from *new or increased* local TLTs put in place on or after July 1, 2003 be used for tourism as defined in statute. (See Attachment A – ORS Chapter 320 Definitions.) The remaining 30% may be used for other general fund supported programs and services as directed by the local governing body.

As a side note, in 2016 the State's TLT was temporarily increased to 1.8%. It is scheduled to reduce down to 1.5% on July 1, 2020. Clackamas County Tourism & Cultural Affairs' (CCTCA) is of the understanding that legislation will be introduced in the 2020 legislation to retain the current 1.8% rate.

### **B) Clackamas County's TLT**

At the time HB 2267 took effect, Clackamas County had a 6% voter-approved TLT in place (County Code Chapter 8.02). It imposes a 6% tax on the rent charged by the operator of any hotel, which is broadly defined in code. The transient pays the tax, which is collected by the operator and transmitted to the County. Operators are authorized to withhold 5% as an administrative offset. Clackamas County's TLT ordinance details how revenues are to be allocated. After the County Fair and county administrative portions are deducted, the remaining revenues are directed to the Tourism Development Council (TDC). (See Attachment B – County TLT Revenue Sharing.)

### **C) TLTs are Cumulative & Rates Vary**

Transient lodging taxes are cumulative. A \$100 room night in Lake Oswego costs a lodger \$113.80; \$1.80 for the state TLT and \$6 to both Clackamas County and the City of Lake Oswego for their local TLTs respectively. Neighboring jurisdictions have their own rates, which can factor into the competitiveness of lodging offered within the County. (See Attachment C - Table of Overlapping & Neighboring TLT Rates)

### **D) Use of TLT Revenues Vary**

Use of TLT revenues varies across jurisdictions. How they allocate and program their revenues is a function of when a jurisdiction established their TLT, what is written into their ordinance and/or how they were programing their revenues prior to July 1, 2003. As per ORS Chapter 320. (See Attachment D – Portland.Mult.Co. Allocations)

### **Funding Non-Tourism Related Programs -**

In terms of options for funding non-tourism related programs with TLT revenues, State legislation imposes two key restriction; (1) absent a *new or increased* TLT, the County may not alter the allocation ratio of revenues from the TLT and (2) any new TLT revenues generated by an increase in the TRT rate must be allocated in accordance to the "70/30" distribution ratio established in statute.

The County could propose adding to the existing county-wide TLT rate. Thirty percent (30%) of the *new or increased* revenues could be used at the Board of County Commissioner's discretion for non-tourism related programs. Such action would require voter approval.

Using collection data from FY18/19 as a base, and applying the 70/30 ratio, below are the revenues that could be available to fund other programs at rate increases of 1 and 2 percent.

FY 18/19 Gross TLT Revs	30% of a 1% TLT increase	30% of a 2% TLT increase
\$4,711,696	\$235,584	\$471,169

The remaining 70% of any newly recognized TLT revenues would need to be used for tourism as required under state law.

**Potential Risks/Consequences -**

Increasing the County’s TLT has the potential to negatively impact businesses operating in Clackamas County. If the cumulative TLT assessed at a Clackamas County property is more than the TLT at a property in a neighboring county, there is a competitive disadvantage for the lodging operator in Clackamas County. This is especially relevant for properties competing for corporate and group travel contracts. A 1 or 2 percent rate increase probably will not influence the occasional booking by a business or leisure traveler but if you factor the increase over thousands of room nights a year, it likely would influence a lodging contract decision because facilities in neighboring jurisdictions become more competitive on the basis price.

If this were to happen, it could result in lower than anticipated TLT revenues because of both a direct reduction in bookings and the downward pressure that lower occupancy puts on average daily rates. Local economic activity might also be effected (restaurants, coffee shops, tax-free shopping) because of fewer business/corporate overnight stays.

**CONCLUSION**

When considering whether existing TLT revenues, or greater than 30% of any *new or increased* TLT revenues, could be used to support non-tourism related programs, the tests that need to be met are A) was the program in question being funded with local TLT dollars when ORS Chapter 320 became effective and B) does it fit the definitions and established criteria for “tourism”, “tourism promotion”, “tourism promotion agency” set forth in state statute.

**FINANCIAL IMPLICATIONS (current year and ongoing):**

Is this item in your current budget?       YES       NO

What is the cost? NA      What is the funding source? NA

**STRATEGIC PLAN ALIGNMENT:**

- How does this item align with your Department’s Strategic Business Plan goals?

In maintaining the integrity of the County's TLT program and using TLT revenues to optimize the economic impacts of the tourism industry we are enhancing the quality of life for residents in Clackamas County.

- How does this item align with the County's Performance Clackamas goals?

In holding true to the proposal and goals presented to industry partners and county voters as captured in 1992 Measure 3-6, we are building public trust through good government. In using TLT revenues for their intended purpose, we are helping to grow a vibrant economy.

**LEGAL/POLICY REQUIREMENTS:** None at this time

**PUBLIC/GOVERNMENTAL PARTICIPATION:** None at this time

**OPTIONS:** NA. This was an information session.

**RECOMMENDATION:** NA. This was an information session.

**ATTACHMENTS:**

- A - ORS Chapter 320 Definitions
- B - County TLT Revenue Sharing
- C - Table of Overlapping & Neighboring TLT Rates
- D – Portland / Mult. Co. Allocations

**SUBMITTED BY:**

Division Director/Head Approval \_\_\_\_\_

Department Director/Head Approval Samara Phelps

County Administrator Approval \_\_\_\_\_

For information on this issue or copies of attachments, please contact Jim Austin @ 503-742-5901

## **Attachment A - ORS Chapter 320 Definitions**

### **ORS CHAPTER 320 DEFINITIONS FOR TOURISM**

(7) "Tourism promotion" means any of the following activities:

- (a) Advertising, publicizing or distributing information for the purpose of attracting and welcoming tourists;
- (b) Conducting strategic planning and research necessary to stimulate future tourism development;
- (c) Operating tourism promotion agencies; and
- (d) Marketing special events and festivals designed to attract tourists.

(8) "Tourism promotion agency" includes:

- (a) An incorporated nonprofit organization or governmental unit that is responsible for the tourism promotion of a destination on a year-round basis.
- (b) A nonprofit entity that manages tourism-related economic development plans, programs and projects.
- (c) A regional or statewide association that represents entities that rely on tourism-related business for more than 50 percent of their total income.

## **Attachment B - County TLT Revenue Sharing**

The revenue allocations from 1992 Measure 3-6 are outlined below. Approved June 1992 by voters.

### Section 17. Tax Revenue Sharing (County Code 8.02.160)

- **Tax Administration**

Commencing with tax revenues collected January 1, 1993

- Operators retain 5% of their net receipts for collecting/remitting
- County administrative costs, not to exceed 2%

- **Clackamas County Fair**

Between January 1, 1993, and June 30, 1993, an amount sufficient to bring proceeds up to a base support of \$250,000 per year disbursed to the Clackamas County Fair for construction, operations and maintenance, in accordance with its annual budget approved by the Board.

- Funds disbursed quarterly
- Adjusted annually for inflation

- **Tourism Development Council**

The balance is placed with the County Treasurer for deposit until transferred to the Tourism Development Council (TDC) to oversee the development and promotion of tourism in Clackamas County.

- TDC consists of nine members appointed by the Board of County Commissioners.
- Funds disbursed monthly
- Board of County Commissioners approves Tourism Master Plan

### Attachment C - Table of Overlapping & Neighboring TLT Rates

								Result of Increase	
Transient Lodgin Tax Rates								+ 1%	+2%
Clack. Co.	City	Clack. Co.				State	Total %	Total	Total
Canby	6.00	6.00				1.80	13.80	14.8	15.8
Gladstone	6.00	6.00				1.80	13.80	14.8	15.8
Lake Oswego	6.00	6.00				1.80	13.80	14.8	15.8
Oregon City	6.00	6.00				1.80	13.80	14.8	15.8
Sandy	3.00	6.00				1.80	10.80	11.8	12.8
Wilsonville	5.00	6.00				1.80	12.80	13.8	14.8
Portland & Mult Co.	City/County GF	City/County Tourism Promo	Excise Tax Fund	Visitor Facilities Trust Acct.	Tourism Improv. Dist. (50+ rooms only)	State	Total %		
Portland/ Mult Co.	5.00	1.00	3.00	2.50	2.00	1.80	15.30		
Wash. Co.	City	Wash. Co.				State	Total %		
Beaverton	4.00	9.00				1.80	14.80		
Forest Grove	2.50	9.00				1.80	13.30		
Hillsboro	3.00	9.00				1.80	13.80		
Tigard	2.50	9.00				1.80	13.30		
Tualatin	2.50	9.00				1.80	13.30		
Wilsonville	5.00	9.00				1.80	15.80		

The box at the top right shows the net Clackamas County TLT rate if a 1 or 2 percent increase were adopted. At 1% the County's TLT starts approaching the net Portland/Multnomah County rate. At 2%, it exceeds the Portland/Multnomah County rate in several high business travel areas.

# FY16-17 City of Portland/Multnomah County/Metro Regional Visitor Facilities and Visitor Development

## TOTAL VISITOR HOTEL ROOM COST in Multnomah County



### 13.3% Transient Lodging Tax (TLT) [per M.C.C. 11.400 & City Charter]

<p><b>5% - to City &amp; County General Funds ("Base Rate")</b> &gt;FY16-17 \$32,886,968 (City \$32.8M, Mult Co, \$38K)</p>
<p><b>1% - to City/County for "Tourism Promotion"</b> per City Charter (est. 1978), MCC &gt;FY16-17 \$6,593,721</p>
<p><b>3% - to Excise Tax Fund;</b> Administered by County; originally for OCC only (est. 1986), amended to fund PCPA, RACC, etc. (1997) &gt;FY16-17 \$19,210,095*</p>
<p><b>2.5% - to Visitors Facilities Trust Account;</b> Administered by County; (est. 2000) &gt;FY16-17 \$15,999,832*</p>
<p><b>1.8% - to State Tourism Commission</b> Originally 1% [est. 2003], increased .8% [2016] &gt;CY16 total state wide revenue \$21,025,916 with \$8,979,132 from Portland Metro Region</p>

\* The 3% (Excise Tax) and 2.5% (VFTA) is net of 5% collection fee deducted by hotels prior to remitting the tax.  
 ++In the City of Portland, hotels with more than 50 rooms also collect a 2% Tourism Improvement District (TID) fee that is used to support destination marketing and promotion efforts.

## TOTAL MOTOR VEHICLE RENTAL FEES in Multnomah County



### 17% Motor Vehicle Rental Tax (VRT) [per M.C.C. 11.300]

<p><b>14.5% - to County general fund</b> Originally 10% [est. 1976], increased 4.5% [2009] &gt;FY16-17 \$28,862,742</p>
<p><b>2.5% - to Visitors Facilities Trust Account</b> [est. 2000] &gt;FY16-17 \$4,976,335</p>

### Excise Tax Fund (ETF)

[per M.C.C. 11.401 (D) and M.C.C. 11.402 (A)]

- Metro for OCC operations (\$3.8M + > CPI or Δ in tax revenue over previous year) >FY16-17 \$10.9M
- Metro for Portland's operations (\$1.2M + < CPI or Δ in tax revenue over previous year) >FY16-17 \$1.4M
- Metro for Portland's for "cultural tourism" via contract w/ Travel Portland & RACC (\$200K + < CPI or Δ in tax revenue over previous year) >FY16-17 \$229K
- RACC for regional promotion & "neighborhood arts" (balance remaining up to \$200K) >FY16-17 \$200K
- Metro for capital needs [used for MERC Pooled Capital] >FY16-17 \$6.5M

### Visitor Facilities Trust Account (VFTA)

[per M.C.C. 11.401(E) and M.C.C. 11.402 (B)]

#### Annual Allocations in Priority Order

#### Debt Service for Bonds

1. OCC 2011 Bonds (City; \$67M total) >FY16-17 \$7.4M; final payment FY29-30 \$9.19M
2. PCPA 2011 Bonds (City; \$1.315M total) >FY16-17 \$792K; Prepaid on 12/1/16. No further obligations.
3. Stadium 2001/2013 Bonds (City; \$35M total) >FY16-17 \$1.40M; final payment FY22-23 \$205K<sup>1</sup>
4. OCC Hotel Project Bonds (Metro; \$52.2M; for 30 yrs) >TBD<sup>2</sup>

#### Support for Operations, Programs, Services, Capital Improvements and Marketing

5. OCC Operating Support (up to \$1.25M+CPI base, additional operating support via VDF1 Board approval)
6. County Visitor Facilities and Operations Support (\$500K+CPI; FY18-FY21, \$750K+CPI/year; FY22 forward, \$1M+CPI; increases subject to Financial Review Team review)
7. Enhanced OCC Marketing (\$450K+CPI; starting in third year aft OCC Hotel is in operation 18 mos. and forward, \$175K+CPI)
8. Convention Visitor Public Transit Passes (up to \$390K+CPI based on actual costs)<sup>3</sup>
9. Visitor Development Fund, Inc for VDF1 (\$645K+CPI) and VDF2 (\$875K)
10. Portland's Operations Support to Metro (\$645K+CPI)
11. Rose Quarter Facilities and City Tourism Support (\$500K+CPI)

#### Revenue Stabilization Reserves

12. Restricted Reserve – 6/30/17 - \$9,837,581
13. Bond Redemption Reserve – 6/30/17 - \$10,593,887

### OCC Hotel Project Site Specific TLT Revenues\*

**City 5% TLT**  
 >FY19-20 ~\$673K to FY21-22 ~\$2.3M  
**3% ETF TLT**  
 >FY19-20 ~\$403K to FY21-22 ~\$1.4M

\* Estimates from OCC Hotel Official Statement, August 2017

Administration fee 0.7% to Multnomah County >FY16-17= \$146,833

\*CPI means as escalated from FY 16-17 (1.011), except for County increases in FY17-18 and FY21-22

1. Refunded in Dec. 2013, decreasing annually through maturity in FY22-23.

2. SSTLTR = OCC Hotel Project Site Specific Transient Lodging Taxes; final bond amount based on SSTLTR and market.

3. FY16-17=\$410,668

This chart is intended to show the collection and use of Transient Lodging Taxes and Motor Vehicle Rental Taxes per City Charter and Code, Multnomah County Code, the Amended and Restated Visitor Facilities Intergovernmental Agreement (VFIGA, 2013), and the Excise Tax Fund Intergovernmental Agreement (ETF IGA, 2000).

Updated September 2017 by Multnomah County- Finance