BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 03-036

Accepting Recommendations of the Community Partnership Steering Committee for Reform of the Multnomah County Business Income Tax, and Authorizing the Chair to Work with the City of Portland to Implement the Steering Committee's Recommendations

The Multnomah County Board of Commissioners Finds:

a. The Portland Business Alliance, the Portland Development Commission, the City and the County agreed in a Community Partnership Agreement in November 2001 to jointly assess and review the impacts of City business license fees and County business income taxes on the business climate and to consider potential reforms if necessary.

b. A Community Partnership Steering Committee consisting of all parties to the Community Partnership Agreement and representatives of other private sector industries and non-profit organizations was appointed to guide the process of review and to develop recommendations.

c. The Community Partnership Steering Committee has completed its review process and has developed recommendations for reform of the City business license fee and the County business income tax;.

The Multnomah County Board of Commissioners Resolves:

1. The Board accepts the attached report and recommendations dated March 11, 2003, of the Community Partnership Steering Committee for reform of the Multnomah County Business Income Tax.

2. The Chair will continue working with the City of Portland to develop financial policies, plans, and agreements to implement the Steering Committee's recommendations.

3. The Chair will report back to the Board by September 1, 2003. The Board will consider the report and other information, and take the actions it deems appropriate.

ADOPTED this 13th day of March 2003

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, ACTING COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By ______________________
Scott Erik Asphaug, Deputy County Attorney

Report and Recommendations of the Community Partnership Steering Committee for Reform of the City of Portland Business License Fee and Multnomah County Business Income Tax
March 11, 2003

Background:

d. Business license fees as currently allocated by the City of Portland and business income taxes as currently allocated by Multnomah County may act as disincentives to businesses remaining, investing, or locating in the City and County.

e. City business license fees and County business income taxes as currently allocated also create inequities among competing businesses and unfair tax burdens upon certain business sectors.

f. The revenues generated by the City business license fees and the County business income taxes represent significant portions of the general funds of both the City and the County and are used to support police, jails, libraries, fire, health services, school-based services, and parks.

g. The Portland Business Alliance, the Portland Development Commission, the City and the County agreed in a Community Partnership Agreement in November 2001 to jointly assess and review the impacts of City business license fees and County business income taxes on the business climate and to consider potential reforms if necessary.

h. A Community Partnership Steering Committee consisting of all parties to the Community Partnership Agreement and representatives of other private sector industries and non-profit organizations was appointed to guide the process of review and to develop recommendations.

i. A Community Partnership Technical Committee consisting primarily of staff of the City, County and the Portland Business Alliance was appointed to assist the Community Partnership Steering Committee with technical issues related to reform proposals.

j. The Community Partnership Steering Committee conducted an in-depth evaluation of the City business license fee and the County business income tax, and considered changes that may be needed to achieve a predictable tax system that is equitable in allocation, efficient in collection, and that furthers the missions of the City and the County without reducing the revenues available to the City and the County.

k. The Community Partnership Steering Committee has completed its review process and has developed recommendations for reform of the City business license fee and the County business income tax.

l. The City and the County have approximately $20 million in overpayment credits applied to taxpayer accounts.

m. The Community Partnership Steering Committee was unable to resolve certain issues, including establishment of a fee in lieu of payroll tax up to a maximum of $50,000 per jurisdiction for hospitals/health systems/fee-for-service medical non-profits; and establishment of a County $100 minimum fee.

Summary:

The Community Partnership Steering Committee recommends that a substantial replacement of the City business license fee and the County business income tax is necessary in order to significantly reduce the inequities and inconsistencies such fees and taxes currently create, to increase efficiency in collection, and to fairly and equitably levy or assess replacement fees and taxes without reducing the revenues available to the City and the County.

The Community Partnership Steering Committee recommends that the City and County require businesses to file an informational return based on the revised structure in order to gather additional information necessary to verify the assumptions and potentially to modify the conclusions reached in the analysis.

The Community Partnership Steering Committee recommends that a target amount, defined as revenue neutrality, be established at $76 million dollars annually.

Recommendations:

1. The City business license fee and the County business income tax should be replaced with a two-source business revenue mix involving:

    a) A City business license fee measured by payroll and a County payroll tax targeted to a rate currently targeted at .395% to generate approximately 60% of current revenue from in-jurisdiction businesses plus apportioned payroll from out-of-jurisdiction businesses, with a goal of a maximum tax liability limitation on business license fees measured by payroll of $50,000 for the City and a maximum payroll tax liability of $50,000 for the County;

    b) A City business license fee and a County business income tax based on net income targeted to a rate of 1.39% to generate approximately 40% of current revenue from in-jurisdiction businesses plus apportioned income from out-of-jurisdiction businesses, with a goal of a maximum income tax liability limitation of $15,000 for the City and $15,000 for the County.

    Using the information collected from the informational return process as provided in recommendation 12, City and County should complete statistical analysis to determine the appropriate maximum amount to be paid by any single business entity to the City and the County for the City business license fee measured by payroll and the County payroll tax and the final rate at which the tax shall be levied.

While the informational return may lead to revision of targeted rates as described in this recommendation, the City and County recognize that Tri-Met currently levies a region payroll tax at the level of .6% and it is the goal of the County and City that at no time shall the combined City/County/Tri-Met payroll tax rate exceed 1%.

2. Business entities whose payroll is $30,000 or less annually indexed should be exempt from the payroll component of the tax. Business entities whose income is $30,000 or less annually indexed should be exempt from the income component of the tax.

3. City and County should ensure that any limitation on total tax paid or levels under which business entities are exempted from paying tax are indexed either annually or on a reasonable periodic basis using rounded amounts to the Portland-Salem area consumer price index.

4. The rates established for the City business license fee and the County business income tax measured by both payroll and income should retain the same relative proportions as the current taxes, both with respect to the City and County revenues, and as they apply to individual taxpayers.

5. Any temporary increases in rates imposed to fund public schools will not be subject to any maximum limits established for tax calculations measured by either payroll or income.

6. In conjunction with payroll, when appropriate, the owner's compensation deduction should be increased to a maximum of $125,000.

7. Along the same timeline for implementing business tax reforms, City and County should develop a financing plan to pay or amortize the $20 million in overpayment credits over a period of time not to exceed 10 years and the reformed City business license fee and the County business income tax codes should not authorize business entities to carry tax credits.

8. City and County should develop separate but parallel financial policies for consideration by their elected officials. The policies should specify under what circumstances the respective business tax revenue growth may be used to fund economic development and further reductions in the business tax rate. The policies should be guided by the following:

   a) The policies should take into account consideration of the overall condition of the General Fund, and the change in discretionary resources in particular.

   b) Discretionary resources should be defined by the respective City and County financial organizations and incorporated into the policy.

c) The policies should incorporate a baseline of Current Service Level (CSL) and include a working definition of CSL that is incorporated into the policy. In the event of a general fund surplus where resources exceed CSL requirements the respective governments should review growth in the business tax revenues.

d) The policies should require that the forecast year-over-year tax revenue growth percentage must exceed the Portland-Salem consumer price index (CPI). If growth in the business tax revenues exceeds the Salem-Portland consumer price index plus 2%, and if sufficient business tax surplus exists, then the following should be incorporated into the respective governments annual financial planning and budgeting processes in the priority of the order listed:

i) 1% of surplus business tax revenues should be appropriated into a counter cyclical fund. These should be in addition to any reserves presently budgeted by the respective governments. The Counter cyclical fund should be funded at a level equal to 10% of the prior years BIT revenue.
ii) 1% of business tax revenues should be appropriated toward an economic development fund that will not exceed 10% of the total business tax revenues.
iii) Decisions on allocation of these funds should be made by a public/private committee similar to the structure of the Visitor Development Fund Board.
iv) Resources over this amount should be prioritized for reduction of business tax rates of the respective governments with due consideration given to providing rate certainty for taxpayers on a year-to-year basis.
v) The policies should identify the methodology specifying how any excess revenue growth may be allocated to funding economic development and business tax reduction.
vi) The County policy should be consistent with and may be incorporated into the existing Comprehensive Financial Management Policy (CFMP).

9. Under the direction of the Multnomah County Chairs Office and the Commissioner-in-Charge of the City of Portland, Bureau of License, in consultation with representatives of taxpayers, City and County ordinances and code amendments should be drafted to implement these recommendations; Neighboring municipal jurisdictions should also be consulted in order to ensure efficiency and consistency in regulation, administration, and disbursement.

10. The tax reforms called for in this recommendation should be adopted by September 30, 2003 for tax year 2003 implementation.

11. City and County should negotiate and or draft such agreements and administrative mechanisms necessary to administer and collect the payroll tax.

12. In consultation with representatives of taxpayers, City and County should develop and implement a one-time only informational return process to test the effects on both

revenues and taxpayers created by this change in tax policy. This process shall be completed no later than August 1, 2003.

13. City and County should develop an outreach and information process designed to notify all licensed businesses of these changes, to solicit comments, and provide opportunities for all businesses to be heard on the recommendation.

14. County and City should undertake an independent evaluation of mechanisms for achieving the goals sought through inclusion of payroll taxpayer liability caps and exemptions, with a full examination of possible alternatives including but not limited to credits.

15. The City and the County should review and adjust the tax reform plan, after one full revenue cycle, in June 2005, to address any unanticipated consequences.

Dated: March 11, 2003