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COMMITTEES

APPOINTMENT REVIEW
BUDGET & FINANCE
GOVERNMENT REFORM
HEALTH & HUMAN SERVICES

STATEMENT TO THE MEDIA

MAY 2, 2008

RE: REDUCTION/REPEAL OF THE DRINK TAX REFORM OF COUNTY AUTHORITIES

Our country was founded upon one simple, bedrock principle: fair taxation. It was the steep and discriminatory system of taxes imposed by King George nearly 250 years ago that led our forefathers to fight for “No taxation without representation”, the Boston Tea Party and ultimately galvanized the British colonies in America into one free Nation and revolted against the King’s tyranny.

The principle of fair taxation has therefore been the engine of democracy for the greatest Nation in history, and has led to the social compact that is our Constitution. The Constitution guarantees our right to a truly representative form of government that promotes open, fair and equal treatment for all. Neither the passage of time, nor the advancement of society has diminished our demand that we all be treated, and taxed, fairly and our history, both nationally and locally, is replete with examples which underscore this. Think of the Whiskey Rebellion and the defeat of such presidents as Jimmy Carter and George H. W. Bush who raised taxes. Locally, consider the fate of the County’s three commissioner form of government and its first home rule administration which were viewed as unfairly imposing property taxes through failed assessment systems.

We are now confronted with another unfair tax, the Drink Tax. The Drink Tax, we have been told, was imposed to subsidize the Port Authority. The Drink Tax is unfair because it is imposed upon an industry predominantly comprised of small businesses that have nothing to do with transit. The Drink Tax is therefore unfair because it is arbitrary and a departure from sound principles of public finance.

The Drink Tax is imposed upon businesses that already pay County property taxes and thus are already making a substantial contribution to the County coffers. Therefore the Drink Tax is unfair because it is discriminatory.

Also, as we have learned from the objective, neutral analysis of the County Treasurer, Drink Tax receipts are vastly outpacing projections, which means the County is reaping a windfall that it does not intend to return. For that reason, the Drink Tax is unfair because it is too high.

Lastly, and perhaps most importantly, the Drink Tax is again proving the wisdom of the late, great Supreme Court Justice Oliver Wendell Holmes who said: "The power to tax is the power to destroy", for the Drink Tax is destroying the tavern industry in Allegheny County. The tax has been imposed while the country has plunged into a recession which is hitting the tavern and restaurant industries much harder than most.

The Drink Tax is not only destroying our local taverns, it is dividing our government. Allegheny County has already been sued by several tavern owners fighting to save their businesses, but this litigation has just been expanded into a class action on behalf of all of them. The threat for serious adverse financial consequences to the County is as real as the serious adverse financial consequences the taverns are facing. The County's property assessment system has already been declared unconstitutional. It can ill afford to have another revenue source meet the same fate.

I have been a Member of County Council only since the beginning of this year. I had nothing to do with the passage of the Drink Tax, and indeed have initiated a number of viable alternatives that would eliminate the need for it, without raising property taxes. It would be easy for me to sit back and watch my colleagues take the political beating they have been absorbing for passing the tax, just as it would for me to sit back and watch my friend, the Chief Executive take the same the same beating. However, I did not come to this government to sit idly by. Further, as one of the At Large Members of Council, I am responsible for the wellbeing of all tavern owners, just as I am for everyone who lives in this County. The Chief Executive and the Democratic Caucus of County Council, whether they see it or not, are locked in a conflict spiral with their own constituents, and it is a spiral which will only deepen and worsen over time. While one side may win this battle legally, the damage will remain for years.

I can tell you that there is not one member of County Council who thinks the Drink Tax was a good idea. At best the tax was, in the minds of those who voted for it, the least among several evils. It was presented to them as the only alternative to a property tax increase or the massive layoff of County employees. Given those parameters, I can understand why they voted for it.

However, as we have seen since the passage of the tax, those parameters are incorrect. Opting not to pass the Drink Tax did not mean one of the other two evils was necessitated. We have learned, since the passage of the Drink Tax, that \$19.9 million dollars was recovered from the Airport Authority by way of gaming revenues, in partial redemption of a long ignored County investment in PIT. This \$19.9 million, which was not budgeted for, is but a down payment on an investment that County Council has been advised is worth as much as \$85 million. We have also learned that at least another \$12.4 million toward this investment is anticipated from gaming revenues for this fiscal year as well.

Additionally, we have learned that through belt tightening and stronger management, the Port Authority is not going to run an \$80 million deficit this year, but in fact will turn a \$10 million

surplus. Moreover, we have learned that notwithstanding the Chief Executive's hold on the County's subsidy to the Port Authority, which denies it access to about \$28 million, the Authority remains viable and capable of borrowing money to cover its relatively small cash flow needs for the rest of this fiscal year. Therefore, it is obvious that from a cash flow perspective, the Port Authority needed but a fraction of its County subsidy, if any for this year.

Finally, we have learned that, based on the most recent collection figures for the first quarter of this year, that the Drink Tax will undoubtedly generate more than \$40 million in revenues, when the County had projected only \$28 million.

Despite all of this, until today, there has been no consideration of recognizing the obvious unfairness of a 10% business tax on a single line of business. Indeed, some within County government are now viewing the meaning of "transit" expansively so that the excess revenues from the Drink Tax can be spent for purposes other than the Port Authority. This is grossly unfair and it must stop and must stop immediately.

For that reason, I am introducing legislation today that would take the Drink Tax down to 5% effective July 1 for the balance of this fiscal year. In so doing, the annualized rate of the tax for this year will be 7.5% which will clearly generate more than the \$28 million budgeted for the Port Authority. Further, this bill will clarify that the Drink Tax and Car Rental Tax will be used only for the Port Authority, and not to subsidize other County operations that were never disclosed in the public debate and discussion concerning these taxes.

This legislation will repeal the Drink Tax effective next year. As I say this, I can hear my good friend, the Chief Executive, scream that this means an increase in property taxes or massive layoffs. If either of those occur for next year, it will be by his hand, not mine, since neither are necessary. I have put forth measures to downsize County government by looking to privatize such white elephants as PIT and the County Airport, Alcosan, and of course, the Port Authority. I have proposed a relatively nominal essential services fee to be assessed on large, revenue generating tax exempt businesses who presently pay no taxes to the County, and have also proposed a comprehensive review of the various County fees, some of which have not been changed in a generation, just as I have proposed that the County recover its full investment in PIT from gaming revenues. My measures are not exclusive as evidenced by the very ingenious cost savings measures suggested by the County Controller in his recent public presentation of the County CAFR.

I am also introducing legislation which will address one of the core problems of County government, one, it can be argued, gave rise to the long standing fiscal issues of the Port Authority – reform of its authorities. The Port Authority's problems are but an example of the poor performance we have endured from other County authorities over the years. This poor performance stems from a lack of oversight and accountability. This legislation will give both the Chief Executive and the County Council caucuses a voice on such boards, enact term limits and require that both the Chief Executive and County Council approve budgets, executive directors and solicitors. Further, in keeping with his expressed desire to prevent over-indulgent collective bargaining agreements, the Chief Executive will be given the power to approve or reject any collective bargaining agreement with a County Authority, which is the same power he has with respect to County collective bargaining agreements.

I am confident that these measures will put an end to the acrimony that is plaguing this

Administration and this County Council. I am also confident that if the Chief Executive and my colleagues on County Council approach these measures, and the other initiatives suggested by the Controller as well as those suggested by others, including myself, that we can develop a fair network of revenues and cost reductions that will meet the legitimate needs of County Government.

Thank you.

Chuck McCullough
Member of Council – At Large
Allegheny County.