

McCurtain County Tourism Authority Minutes

Held Tuesday, July 16, 2024 - 1:00 PM

The meeting was held in the Broken Bow Area Chamber of Commerce Board Room at 113 West Martin Luther King Drive in Broken Bow.

Chairman Dave Smulyan called the meeting to order at 12:59 P.M.

Members present: Dave Smulyan, Amy Keeling, Wenda Blankenship, Jerry Don Smith, Ed Fullmer, and Tommy Julian. **Absent Board Members:** None. Everyone was present. Executive Director, Charity O'Donnell and Communications Specialist Laura Lester were also present. Guests in attendance were County Commissioner John Williams, Tommy McDaniel, Don Yeager, Dustin Lenard, Sarah Ray, Cole Jackson, and Brian Whitfield.

Dave Smulyan skipped down to agenda items 10 and 11. Agenda item 10 was Discussion, consideration and possible action to support board of County Commissioners proposal to reallocate the 3% lodging tax to 2.5% for MCTA and 0.5% for hospital reconstruction. Agenda number 11 was discussion and possible action to support the hospital allocating 2% in addition to the current 3% lodging tax for the hospital.

Dave gave an overview of events that lead to these items being on our agenda. Dave stated he was contacted a couple of months ago by the hospital and the county commissioner's office asking him if the McCurtain County Tourism Authority (MCTA) would support a 0.5% decrease to fund the hospital for either rehab or construction. He stated he could not speak on behalf of the board, but he personally would support it. Then, last week he received an email from Brian Whitfield stating that it had gone from a half cent to a reduction of about 67% of our existing budget to where the 85% that MCTA receives now would be split equally between hospital and tourism authority. He stated that would be 42% of the budget.

Dave then stated that he, Wenda, Ed, and Charity had attended last week's county commissioners meeting to speak on behalf of MCTA. They spoke about what they felt the board would support, reasons not to decrease our budget by 67%, and the ramifications that would happen as a result. Dave then asked Brian to give a brief history as to where the hospital is on this initiative.

Brian started by stating that the hospital isn't looking for conflict. He stated he had previously spoken to Dave about his support and that he was a former board member of the hospital. The hospital went to the county commissioners

asking them to pass a resolution to the 0.5% as well as an additional 2% to supplement the funding of the new hospital. Brian went on to state that they were asked by the commissioners to seek legal counsel to make sure it would no way place the existing 3% in jeopardy. He stated that it would not be deemed as a new lodging tax.

The hospital's attorneys got with the commissioner's legal attorneys, they met and discussed everything to determine a legal opinion. They brought in financial advisors to go over the figures for what they felt it would cost, determining exactly what would be needed to move forward. Brian stated that they said it would be up to architects to determine the possibility of rehabilitating the existing hospital. It would take 28 million dollars to rehabilitate as opposed to building a new hospital that would cost 31.5 million dollars.

Brian stated that they only use 60,000 sq ft of the existing building so the amount is to build a 60,000 sq ft facility. During this conversation, he stated we were made aware of the county is facing some lawsuits. The attorneys informed the hospital board that they didn't want to touch the remaining 2% lodging tax or quarter-cent sales tax because they felt the county would need that to satisfy judgement that are coming against the jail trust soon. He went on to state that it would require a 50/50 split of the remaining 85% of the 3%. Brian stated that they were told this was the only option being entertained under the current circumstances.

Brian said that was the presentation that was put together to present to the county commissioners and that at that time they seemed to be in favor of constructing a new hospital instead of repairing the existing one. Brian gave the reasons for it. He went on to state he respects everyone's views on this however he feels we can come to a solution.

Tommy asked about the 2% that was passed in 2022 and where we were in that situation? John Williams explained that it was never collected, the Supreme Court ruled the tax was invalid. It was challenged and overturned because the publication requirements were not met. Dave added that new construction would be on a piece of property that the county obtained last year that was paid for by government money, so a plan must be in place by the end of the year otherwise the money must be paid back.

Wenda asked why the land was purchased without the money to build already being secured. Dave explained that the decision had been made by the previous county commissioners. Brian explained that for multiple reasons it

was a good plan at the time. The decision to purchase was after the vote and they didn't anticipate getting overturned.

It was also discussed that the deadline to be on the November ballot is August 19th. Charity and Wenda both expressed that it wasn't enough time to make sure everything that needed to be double checked, vetted, and secure. Wenda explained that she was concerned that it was too soon, the effects of the tax money and changes on the tax income, taking away advertising effects income, VRBO and ABNB do not advertise Broken Bow and Hochatown. By cutting the advertising budget by 67% you are affecting future tax dollars.

Wenda asked Tommy McDaniel to speak on his knowledge of the topic. He spoke about how this tax has allowed him to come back home, care for elderly parents, and allowed him and his family to reside here and make a living. He commended the board on its foresight and success that has developed because of the tourism lodging tax.

Tommy stated that he is here as an individual and resident of McCurtain County; he isn't representing the City of Hochatown or any other entity or organization. He said he is a resident of Hochatown and an owner of two businesses in Hochatown. Tommy stated his goal here is to inform the board of potential actions that could affect the county general fund.

Tommy then passed out handouts – Item 1 was Oklahoma State Statute Title 68 section 1370.9, Item 2 was AG opinion 27 from 2008, Item 3 was information from ADA.gov about what defines a STR according to the ADA, Item 4 was Oklahoma State Statute Title 68 section 1370.8, and Item 5 was a verb tense sheet from the internet explaining present perfect tense and past perfect tense. He explained there are three items the board needs to consider if they start relocating money that they could face legal challenges going forward.

The first concern is in the language of the 3% lodging tax statute, Tommy said of the 2% that would be in the county; Hochatown has established their own lodging tax and would be exempt just like Broken Bow, Valliant, and Idabel currently. He estimates that 75-80% of the tax occurs from lodging within the city limits of Hochatown. Item 1 in the language about the statute that was passed for the lodging tax. The 2% would not apply in this situation.

Tommy is here to protect tourism taxes and the prosperity it has created for this county. The whole tax and the relocation of the tax – he went on to state that this is a judgment issue: is it a new tax or is it not a new tax? If it is

deemed a new tax, then the 3% wouldn't apply to Hochatown City limits. Most of the funds would diminish. Tommy stated according to the statutes any time you change a tax or reallocate a tax, it is considered a new tax. You cannot reallocate a tax without withdrawing a tax.

The reason the 2% got overturned is because the advertising requirements for the ballot for the 2% had to be published in the local paper for four consecutive weeks prior to the election. It was overturned because the law was not followed regarding the requirement for advertising the election for the 2% tax. Attorney General's opinions carry the weight of the law when they are given until they have been challenged or new statutes are written.

Another lawsuit that could potentially happen would be the attorney general's opinion – why Hochatown is required to pay the county lodging tax is because it states if a county has a lodging tax, and the subsequent hotels and motels are public lodging. Then if one gets into cabins or public lodging, what is public lodging and what is not public lodging? The ADA does not recognize short-term rentals as public lodging because they do not require ramps and other such accommodations.

Tommy McDaniel went on to state this was recognized a few years back when the Real Estate Commission was trying to take over control and it was ruled that cabins were not public lodging. He went on to state that the argument could be that all STRs are not public lodging and are not subject to collecting the lodging tax. The statutes talk about hotels, motels, and public lodging. So, ADA has confirmed it, and the Real Estate Commission has ruled it. So, it could overturn the existing tax.

Tommy went on to discuss the lodging tax statutes and attorney general options verbiage are not the same. The tenses are not correct on both documents and the verb usage is incorrect here and this could also be challenged because it isn't correct. Tommy concluded that there are a lot of hazards that could potentially cause the 3% to not be available to county tourism and then we would not have money for advertising, and we need to figure these things out before anything is changed.

He offered a solution, item number 4 right in front of it is a hospital authority district and tax. .25 cent county-wide sales tax that generates about \$130,000 for a new tax. That could be raised to 2% for the hospital. He stated this is a mechanism in place to build a new hospital and by utilizing this we don't put the other in jeopardy. Brain Whitfield asked what would keep them from filling and challenging this now and undoing it where they don't have to pay

the 3%. Tommy answered that the MCTA has a proven history and track record of solid growth and that is why he is here today to keep the funding with MCTA. Dave thanked Tommy McDaniel for all his research and for bringing it to the board to make them aware.

Dave went on to say the decision ultimately lies with the county commissioners. All we can do is hope they take this information to guide them. He stated that he learned a couple of things yesterday, with a managed critical care system that the hospital will receive more funding than in the past year. In addition, the Oklahoma Hospital Association has many grants on the table for everything the hospital needs.

Dave stated that we could potentially lose everything with the information Tommy has brought to us. If that happens everyone loses not only the tourism authority, the county, the hospital, and the cabins, and most businesses in our county will lose a great deal. So how can we do something that would be iron-clad?

Tommy McDaniel stated that tourism has generated 300 million dollars economy. Of all sales tax dollars generated, 30 to 35% are a result of tourism. Tommy stated that tourism dollars lift everything in the county and that is why we must protect tourism. Through sales tax cents, ad valorem, the property increased values, schools benefit with bond and such year after year, tourism is generating a lot of lift in this county and that is we must continue to fight to keep them advertising our area.

Tommy explained is visitation here is increasing. He then stated we are in a unique position here and that if we all work together, we can all have what we want. Tourism grows the base of our economy, and we need to continue to do that. Dave asked that we not rush into anything. After a lengthy discussion, no action was taken, and nothing was decided. Dave thanked everyone for coming and he gave everyone a brief five-minute break.

The meeting was reconvened at 2:35 pm with the following in the room. Board Members: Dave Smulyan, Amy Keeling, Wenda Blankenship, Jerry Don Smith, Ed Fullmer, and Tommy Julian. Charity O'Donnell Executive Director and guest County Commissioner John Williams were still present.

Dave went back to item 3 on the agenda.

Minutes: Wenda Blankenship motioned to approve the May annual meeting minutes as presented. Amy Keeling seconded the motion. Motion passed 3-

0. Dave Smulyan, yes; Wenda Blankenship, yes; Amy Keeling, yes. Tommy Julian and Jerry Don Smith abstained as they did not attend the last meeting.

Special Meeting Minutes: Amy Keeling motioned to approve the May special meeting minutes as presented. Wenda Blankenship seconded the motion. Motion passed 3-0. Dave Smulyan, yes; Wenda Blankenship, yes; Amy Keeling, yes. Tommy Julian and Jerry Don Smith abstained as they did not attend the special meeting.

Financial Report: Charity O'Donnell presented the financial report. John Williams left the room. Tommy Julian motioned to approve the Financial Report as presented, seconded by Jerry Don Smith. Motion passed 7-0. Dave Smulyan, yes; Jerry Don Smith, yes; Tommy Julian, yes; Wenda Blankenship, yes; Amy Keeling, yes and Ed Fulmer; yes.

Purchase Orders: Purchase Order amounts for May and June were presented and reviewed. Tommy Julian made the motion to approve as presented and seconded by Wenda Blankenship. Motion passed 7-0. Dave Smulyan, yes; Jerry Don Smith, yes; Tommy Julian, yes; Wenda Blankenship, yes; Amy Keeling, yes and Ed Fulmer; yes.

Advertising Update: Charity reported that ICG is working hard to implement what was discussed and approved at the last meeting. They asked if we would be interested in this Tourism Economics company, they would come here and crunch numbers and determine the exact tourism economic impact for McCurtain County. She went on to state that they felt like with all the battles we have faced this might be helpful. ICG said the initial numbers of what this would cost would be \$25,000 minimum. This isn't advertising, it just gives us the concrete numbers and the talking points and reassurance that we are making an impact doing all this advertising.

Another thing is when we booked our billboard buy, they were able to get us a great deal. In the past we have advertised on the big side of a parking garage. They did it as a free ad so all we had to do was pay for the image to be produced. It will run for two months on Main Street in Dallas. It is across from a park. Then she stated that she asked them to geofence it so we could track this QR code.

Charity also mentioned that we are in the process of reprinting the county and point of interest maps. She explained the last maps we printed were distributed faster than we have ever had before. And she also explained she has been working on keeping the website up to date with business and events.

She also mentioned they have a kiosk company movers canceled, and she is still working on getting it moved. Dave asked on about the local tourism meeting we wanted to have with everyone. Charity replied ICG was working on it for the winter.

Annual Agreement with Chamber: The agreement is attached to the packets. Tommy Julian made a motion to approve the annual agreement, Jerry Don Smith seconded. Motion passed 7-0. Dave Smulyan, yes; Jerry Don Smith, yes; Tommy Julian, yes; Wenda Blankenship, yes; Amy Keeling, yes and Ed Fulmer; yes.

Officers and requisitioning and receiving officers: Charity explained that we currently have Charity and Amy as requisitioning, and receiving officers are Dave Smulyan and Wenda Blankenship. Tommy is Chair elect and Dave is Chair. A motion was made by Ed Fulmer and seconded by Jerry Don Smith to make Amy Keeling for secretary and Wenda Blankenship for treasurer. And to keep all other officers the same. Motion passed 7-0. Dave Smulyan, yes; Jerry Don Smith, yes; Tommy Julian, yes; Wenda Blankenship, yes; Amy Keeling, yes and Ed Fulmer; yes.

Trash project update: No action was taken.

Unscheduled New Business:

Park Manager position: The county commissioners we believe never removed the position officially, it is also still in our bylaws. We have a new park manager, and without it, we have had an even number of board members when we really need odd. Dave stated he would talk to John Williams and go from there.

Dave thanked everyone for being here and staying for the entire meeting.

Tommy Julian asked about this board and as a board member are they protected from being sued personally and does this board have any protections for our board members? It was stated that we have always been told that we are covered by the county. Tommy wanted us to get with the DA and double-check all this as a solely tax-funded entity.

Adjournment: A motion was made by Wenda Blankenship to adjourn the meeting, and the motion was seconded by Tommy Julian. The meeting ended around 3:15 pm. Motion passed 7-0. Dave Smulyan, yes; Jerry Don Smith, yes; Tommy Julian, yes; Wenda Blankenship, yes; Amy Keeling, yes and Ed Fulmer; yes.