

**TOURISM EXPENDITURE REVIEW COMMITTEE
MEETING MINUTES
September 15, 2003
Room 2E21 of the SC Department of Revenue, 11 a.m.**

ATTENDANCE:

Committee Members in Attendance: Frans Mustert, Chairman; Lanneau Siegling, Vice Chairman; John Curry, Susan Cruse, Toni Nance, and Mark Williams.

Staff in Attendance: Damita Jeter, TERC Staff;

Guests in Attendance: Gary Cannon, Municipal Association of SC; Libby Gober and Tina Saxon, City of Columbia

CALL TO ORDER AND ADMINISTRATIVE TASKS:

- The Committee approved the August 4, 2003 minutes as submitted.
- The Committee submitted their travel vouchers to Mrs. Jeter.
- Mrs. Jeter submitted to the Committee a tentative list of “team members” for reviewing reporting forms. She asked the Committee members to take a look and report any changes in which they did not feel comfortable reviewing certain entities.
- The Committee submitted their renewals for TERC license plates for the year.
- The Committee also reviewed the accommodations tax reporting package, which Mrs. Jeter said had been sent to the appropriate entities. Mr. Williams said he was concerned with the 50 mile guideline that the Committee adheres to. Mr. Mustert said the recently-drafted policy, which was part of the packet, says the Committee’s official stance is that it will examine every thing on a case by case basis and if an entity proves that its expenditure attracts tourists and promotes economic growth, it will be deemed acceptable. Mr. Williams said he was concerned that there was no law behind the policy and thought the Committee should adhere to only the guidelines set forth by the law. Chairman Mustert asked Mr. Cannon of the Municipal Association of SC to assist in any legislative changes the Committee might have. He also asked Mr. Cannon to contact the S.C. Association of Counties in regards to filling a vacant seat on the Committee when Steven Brown, their designee, resigned.
- The Committee then discussed the possibility of designing a website, which would aid in distributing information and education to counties and municipalities. Mrs. Jeter said she would discuss the possibility with the SC Department of Revenue.
- Chairman Mustert asked Toni Nance if she would feel comfortable reviewing reports and questionable expenditures and rendering an opinion. She said she would, and if ever she did feel that certain actions were conflicting with her role as non voting member, she would let the Committee know.

REVIEW OF CERTAIN EXPENDITURES:

- **Town of Lexington:** The Committee reviewed this entity's reporting form and asked for further clarification on the Corley Street Park Restoration in the amount of \$3,000.00
- **City of Greenwood:** The Committee will hold over the City of Greenwood's question on appropriate expenditures until the entity submits new information.
- **City of Beaufort:** During its last meeting the Committee reviewed a request from the City of Beaufort, regarding a \$40,000 appropriation over five years for construction of a performing arts center at USCB. The Committee questioned whether or not this had been run through the local a-tax committee first. If not, it could be rejected on that basis, considering the law states that if a local a-tax committee is in place the county or municipality must run it through them first (Section 6-4-25). The Committee asked Mrs. Jeter to obtain more information and ask in more detail how it provides for tourism and the procedure in which council funded it. After a response from Beaufort, the Committee also asked the State Attorney General's office for its input as to the appropriateness of committing funds up front or whether it should be done on an annual basis. During its September meeting, the Committee stated they believed the City mis-handled the situation by committing future funds and the project should be reviewed on an annual basis. However, the Committee will wait until the Attorney General's opinion is rendered before an official response is given. *Subsequent to the writing of the minutes, the State Attorney General's Office rendered its opinion, which shall be taken up at the next Tourism Expenditure Review Committee meeting.*
- **Oconee County** – During its last meeting, the Committee approved an expenditure from Oconee County for the Miss Golden Corner pageant. This was based on the fact that the guidelines had come out after the expenditure was funded. After speaking with the pageant staff, they had told the Committee they would not ask for funding this year. However, the Committee received a letter from the County's accommodations tax committee and a request from pageant officials. The Committee made a motion to deny their request based on the fact that the information provided did not prove that it was a tourist-related event that primarily attracts and provides for tourists. Also, pageant officials understood the Committee would not approve funding again. The motion passed with two "no's" – one from Mr. Williams and one from Mr. Siegling. *(Further examination of the records revealed, however, that officials were requesting funds for advertising promotional efforts. A subsequent motion was made to reverse the denial and approve this request based on the fact that it is advertising and promotion of the event to tourists. The Committee approved the motion and approved a request for \$2,550.00 to fund out of market advertising and advertising aimed specifically to tourists. A letter will be drafted telling them such.)*
- **Kershaw County** – this entity's request for approval of funds to build a handicap ramp at the Camden archives will be carried over when information is presented by them.
- **Town of Moncks Corner:** The Town sent an original request to the Committee in October 2002, which was never addressed. They then amended the request. The Committee suggested the Town run its request back through their local accommodations tax committee and Mrs. Jeter was asked to obtain an unofficial opinion from SCDOR legal counsel. The Committee decided this would set a precedent in being able to change requests for carryover of funds; therefore, a legal opinion was necessary. After the

opinion was rendered that since TERC never answered their first request to treat any subsequent request as the first, and because they did not have a local accommodations tax committee since they fall below the threshold, the TERC approved a motion for the Town to use carryover funds in the amount of \$4,918.00 to fund, in part, a visitors center and someone to staff it. The original motion was subsequently amended and included a one-year time limit to carry over these funds.

- **City of Spartanburg** – The Committee will review this case in its next meeting when the City presents information.
- **Georgetown County (CVB):** The question arose whether or not the CVB could use either 65% or 30% funds to pay for operation of its visitors center. By operation, it includes salaries, software, telephone, expense, etc. The Committee arrived at the opinion that the law states if you are in a high concentration of tourism area, (which Georgetown County is), you can use the 65% to pay for “operation of visitors centers,” but only to the extent that the center is used to attract, promote and provide for tourists. The Committee also decided that it could use the 30 percent to pay for any costs associated with promoting tourism, but only to the extent that these costs (including staff time) are solely dedicated to tourism. The Committee further requested a budget to determine the extent it provides “solely for tourism” before sending an official letter to the CVB. The letter said it would approve based on the review of the budget. After reviewing the budget, Mr. Mark Williams motioned to approve the CVB’s original request. However, after no second, the Committee motioned to disallow \$31,158 which included staff and administrative fees and considered it inappropriate
- **Jasper County:** Jasper County had emailed the staff for an opinion of various requests to use accommodations tax funds, which included maintaining a private pond on private property, mowing the grass at an intersection and installing a traffic light. After careful consideration, the Committee said it does not believe these to be fundable from accommodations tax funds. Funds cannot be used for the pond because it is a private pond on private property, and funds cannot be used to mow the grass and install traffic lights as this is something normally done by the county or municipality. A letter will be drafted telling them such, and the DOT will be copied.
- **Town of Blythewood:** Mrs. Jeter explained that this municipality, which is still fairly new in their reporting, had some confusion about what is appropriate and what is not. Mrs. Jeter explained what acceptable expenditures are per the law. Mrs. Jeter also said the Town was behind with their reporting and they would be sending in an amended report by January, which will bring them up to date.
- **Chester County:** During its August meeting, the Committee voted to withhold approximately \$28,000 in carryover funds from this entity, which had said they wanted the TERC to approve an extension. However, when Mrs. Jeter told them the extension had to be earmarked for a specific project as per the law, the County said they would get a formal request to the Committee soon, which included the specific project the money would go to. After several months of no correspondence, the Committee voted to withhold the funds. However, the County did send correspondence and ask that there be an extension of funds and the money go to the Olde English District for a visitors center project. The Committee approved a motion that the County be granted a one-year extension. A letter will be drafted telling them such.
- **Beaufort County:** In its last meeting the Committee voted to withhold funds from this entity due to noncompliance when the Committee asked for additional information on questionable expenditures in March 2003 and no response had yet been given. The

County subsequently sent a response, which the Committee reviewed. The Committee passed a motion to draft a letter telling Beaufort County that the Committee deemed their expenditures acceptable, but would ask them in the future, to implement a tracking system for tourists.

LOCAL A-TAX COMMITTEE COMPLIANCE:

Chairman Mustert briefed the TERC on its request to Florence County, City of Orangeburg and Orangeburg's County regarding their Committees' compliance in its makeup. After much discussion, TERC decided that it would draft letters to these three entities asking them to come into compliance within 60 days or funds may be withheld under the non reporting section of the law.

Some discussion ensued about whether or not the Committee had the authority to do such. The Committee interpreted that under their authority to review forms for compliance, it included reviewing the makeup of the local accommodations tax committee. For FY 02-03, the Committee will review local committee forms for compliance.

OTHER BUSINESS:

Horry County:

Chairman Mustert briefed the Committee on a situation in Horry County where the County had given its 30% monies to several chambers, including the Little River Chamber of Commerce. The Chamber has subsequently closed and turned over everything to the North Myrtle Beach Chamber. Horry County has requested an opinion from the Committee as to the legality of this stating they would like the opportunity to reallocate these funds. After seeking an informal opinion from the SCDOR, Chairman Mustert and the Committee agreed with the SCDOR who cited section 6-4-10 concerning the distribution of the 30% monies, stating that it should come from the municipality or county to the nonprofit designee, not from non profit to non profit. The Committee will draft a letter telling Horry County such.

Legislative Changes:

Mr. Mustert asked Mr. Cannon of the Municipal Association of SC to assist in any legislative changes that the Committee might have this year. Mr. Mustert and the Committee said they would like to see a clarification of "home community" as well as the TERC having jurisdiction over local accommodations tax committee compliance. Mrs. Jeter said she would like the "tourism related expenditures" section, which is currently under the "high concentration" to be rearranged. Some entities believe that anyone can use accommodations taxes for such things as municipal services, police, transportation, etc. The law says you can use these things, but only to the extent that they are used for tourism, which is common in areas of "high concentration." Mr. Cannon further explained that his Association would be looking to "loosen up" the requirements of "high concentration" areas, commonly those which receive more than \$900,000 in accommodations tax revenue. Mr. Cannon said he would consult Mr. Tom Sponseller on the endeavor as well.

City of Columbia:

Representatives from the City, Ms. Libby Gober and Ms. Tina Saxon, appeared before the Committee seeking guidance on several issues. The Committee commended them for their efforts in following the law and staying within compliance.

Charleston Transportation:

Mr. Siegling told the Committee he was seeking guidance on an issue in Charleston concerning transportation. He said Charleston has transportation systems which transport both employees and tourists. Citing Section 6-4-10, the Committee said that Charleston was in a “high concentration” area and it was allowed to use accommodations tax funds to transport tourists. However, the percentage that the transit system was used to transport employees would not be fundable in their opinion.

Media FOI guidelines:

Mrs. Jeter told the Committee she believes the Committee needs to adopt formal FOI guidelines. These guidelines could be based on the state FOI guidelines and the SCDOR policy on FOI. The Committee passed a motion for Mrs. Jeter to draft guidelines and submit them to the Committee for approval.

Legal Counsel:

Chairman Mustert reviewed with the Committee the names of various attorneys that the Committee could use for legal counsel. The SCDOR could not legally represent the Committee anymore, he said. After some discussion, the Committee decided the chairman and the vice chairman will “interview” the three and select an attorney. The committee also decided that counsel would sit in on one meeting and then be available on an “as-needed” basis.

The next meeting scheduled of the TERC is scheduled for October 20, 2003 at 11 a.m. at the SCDOR, Room 2E21.

There being no other business, the Committee adjourned.

Respectfully Submitted,

Damita S. Jeter

Damita S. Jeter, TERC Staff